

STATE OF KANSAS

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**2017 SESSION LAWS  
OF KANSAS  
VOL. 1**

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

PASSED DURING THE 2017 REGULAR SESSION OF THE  
LEGISLATURE OF THE STATE OF KANSAS

Date of Publication of this Volume  
July 1, 2017

## AUTHENTICATION

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### STATE OF KANSAS OFFICE OF SECRETARY OF STATE

I, Kris W. Kobach, Secretary of State of the state of Kansas, do hereby certify that the printed acts contained in this volume are true and correct copies of enrolled laws or resolutions which were passed during the 2017 regular session of the Legislature of the State of Kansas, begun on the 9th day of January, A.D. 2017, and concluded on the 26th day of June, A.D. 2017; 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. 2017, except when otherwise provided.

Given under my hand and seal this 1st day of July, A.D. 2017.

KRIS W. KOBACH,  
*Secretary of State*

(SEAL)

## EXPLANATORY NOTES

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

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

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

Approval and publication dates are included.

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 The bill index, subject index and list of statutes repealed or amended will assist you in locating bills of interest.

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## NOTICE

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

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Secretary of State  
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Topeka, KS 66612-1594  
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## OFFICIAL DIRECTORY

### ELECTIVE STATE OFFICERS

<i>Office</i>	<i>Name</i>	<i>Residence</i>	<i>Party</i>
Governor .....	<b>Sam Brownback</b> .....	Topeka .....	Rep.
Lieutenant Governor .....	<b>Jeff Colyer, M.D.</b> ....	Overland Park ....	Rep.
Secretary of State .....	<b>Kris W. Kobach</b> .....	Piper .....	Rep.
*State Treasurer .....	<b>Jacob LaTurner</b> .....	Pittsburg .....	Rep.
Attorney General .....	<b>Derek Schmidt</b> .....	Independence .....	Rep.
Commissioner of Insurance ....	<b>Ken Selzer</b> .....	Leawood .....	Rep.

\* Jacob LaTurner sworn in on April 26 to replace Ron Estes

### STATE BOARD OF EDUCATION

<i>Dist.</i>	<i>Name and residence</i>	<i>Dist.</i>	<i>Name and residence</i>
1	<b>Janet Waugh</b> , Kansas City	6	<b>Deena Horst</b> , Salina
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5	<b>Sally Cauble</b> , Dodge City	10	<b>Jim McNiece</b> , Wichita

### UNITED STATES SENATORS

<i>Name and residence</i>	<i>Party</i>	<i>Term</i>
<b>Pat Roberts</b> , Dodge City .....	Republican	Term expires Jan. 3, 2021
<b>Jerry Moran</b> , Hays .....	Republican	Term expires Jan. 3, 2023

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(Terms expire January 3, 2019)

<i>District</i>	<i>Name</i>	<i>Residence</i>	<i>Party</i>
First .....	<b>Roger Marshall</b> .....	Salina .....	Rep.
Second .....	<b>Lynn Jenkins</b> .....	Topeka .....	Rep.
Third .....	<b>Kevin Yoder</b> .....	Overland Park .....	Rep.
*Fourth .....	<b>Ron Estes</b> .....	Wichita .....	Rep.

\* Ron Estes sworn in on April 25 to replace Mike Pompeo

**LEGISLATIVE DIRECTORY**

**STATE SENATE**

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Alley, Larry</b> , 517 Quail Nest Rd., Winfield 67156 .....	Rep.	32
<b>Baumgardner, Molly</b> , 29467 Masters Ct., Louisburg 66053 .....	Rep.	37
<b>Berger, Edward E.</b> , 2501 Briarwood, Hutchinson 67502 .....	Rep.	34
<b>Billinger, Richard (Rick)</b> , Box 594, Goodland 67735 .....	Rep.	40
<b>Bollier, Barbara</b> , 6910 Overhill Rd., Mission Hills 66208 .....	Rep.	7
<b>Bowers, Elaine</b> , 1326 N. 150th Rd., Concordia 66901 .....	Rep.	36
<b>Denning, Jim</b> , 8416 W. 115th St., Overland Park 66210 .....	Rep.	8
<b>Doll, John</b> , 2927 Cliff Place, Garden City 67846 .....	Rep.	39
<b>Estes, Bud</b> , 1405 Elbow Bend, Dodge City 67801 .....	Rep.	38
<b>Faust Goudeau, Oletha</b> , 4158 Regents Lane, Wichita 67208 .....	Dem.	29
<b>Fitzgerald, Steve</b> , P.O. Box 390, Leavenworth 66048 .....	Rep.	5
<b>Francisco, Marci</b> , 1101 Ohio, Lawrence 66044 .....	Dem.	2
<b>Givens, Bruce</b> , 1525 Country Club Rd., El Dorado 67042 .....	Rep.	14
<b>Goddard, Daniel W.</b> , 3420 Mosher Rd., Parsons 67357 .....	Rep.	15
<b>Haley, David</b> , 936 Cleveland Ave., Kansas City 66101 .....	Dem.	4
<b>Hardy, Randall</b> , 816 Highland Ave., Salina 67401 .....	Rep.	24
<b>Hawk, Tom</b> , 2600 Woodhaven Ct., Manhattan 66502 .....	Dem.	22
<b>Hensley, Anthony</b> , 2226 S.E. Virginia Ave., Topeka 66605 .....	Dem.	19
<b>*Hilderbrand, Richard</b> , 10337 SE 107th Terr., Galena 66739 .....	Rep.	13
<b>Holland, Tom</b> , 961 E. 1600 Rd., Baldwin City 66006 .....	Dem.	3
<b>Kelly, Laura</b> , 234 S.W. Greenwood, Topeka 66606 .....	Dem.	18
<b>Kerschen, Dan</b> , 645 S. 263 West, Garden Plain 67050 .....	Rep.	26
<b>Longbine, Jeff</b> , 2801 Lakeridge Rd., Emporia 66801 .....	Rep.	17
<b>Lynn, Julia</b> , 18837 W. 115th Terr., Olathe 66061 .....	Rep.	9
<b>Masterson, Ty</b> , 1539 Phyllis Ln., Andover 67002 .....	Rep.	16
<b>McGinn, Carolyn</b> , P.O. Box A, Sedgwick 67135 .....	Rep.	31
<b>Olson, Rob</b> , 15944 S. Clairborne St., Olathe 66062 .....	Rep.	23
<b>Petersen, Mike</b> , 2608 S. Southeast Dr., Wichita 67216 .....	Rep.	28
<b>Petty, Pat</b> , 5316 Lakewood St., Kansas City 66106 .....	Dem.	6
<b>Pilcher-Cook, Mary</b> , 13910 W. 58th Pl., Shawnee 66216 .....	Rep.	10
<b>Pyle, Dennis</b> , 2979 Kingfisher Rd., Hiawatha 66434 .....	Rep.	1
<b>Rogers, Lynn W.</b> , 912 N. Spaulding, Wichita 67203 .....	Dem.	25
<b>Schmidt, Vicki</b> , 5906 SW 43rd Ct., Topeka 66610 .....	Rep.	20
<b>Skubal, John</b> , 6503 W. 134th Terr., Overland Park 66209 .....	Rep.	11
<b>Suellentrop, Gene</b> , 6813 W. Northwind Circle, Wichita 67205 .....	Rep.	27
<b>Sykes, Dinah H.</b> , 10227 Theden Circle, Lenexa 66220 .....	Rep.	21
<b>Taylor, Mary Jo</b> , 114 N. Union, Stafford 67578 .....	Rep.	33
<b>Tyson, Caryn</b> , P.O. Box 191, Parker 66072 .....	Rep.	12
<b>Wagle, Susan</b> , 4 N. Sagebrush St., Wichita 67230 .....	Rep.	30
<b>Wilborn, Richard E.</b> , 1504 Heritage Place, McPherson 67460 .....	Rep.	35

\* Richard Hilderbrand sworn in on May 1 to replace Jacob LaTurner

## HOUSE OF REPRESENTATIVES

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Alcala, John,,</b> 520 N.E. Lake, Topeka 66616 .....	Dem.	57
<b>Alford, J. Stephen,,</b> 4179 E. Rd. 19, Ulysses 67880 .....	Rep.	124
<b>Arnberger, Tory Marie,</b> PO Box 103, Great Bend 67530 .....	Rep.	112
<b>Aurand, Clay,</b> 810 Shady Lane, Belleville 66935 .....	Rep.	106
<b>Awerkamp, Francis,</b> 807 W. Linn St., St. Marys 66536 .....	Rep.	61
<b>Baker, Dave,</b> PO Box 252, Council Grove 66846 .....	Rep.	68
<b>Ballard, Barbara W.,,</b> 1532 Alvamar Dr., Lawrence 66047 .....	Dem.	44
<b>Barker, John E.,,</b> 103 Wassinger Ave., Abilene 67410 .....	Rep.	70
<b>Becker, Steven R.,</b> PO Box 384, Buhler 67522 .....	Rep.	104
<b>Bishop, Elizabeth,</b> 8518 E. Longlake St., Wichita 67207 .....	Dem.	88
<b>Blex, Doug,</b> 3131 CR 2600, Independence 67301 .....	Rep.	12
<b>Brim, Shelee,</b> 6756 Longview Road, Shawnee 66218 .....	Rep.	39
<b>*Burriss, Jesse,</b> 1545 E. 119th St., Mulvane 67110 .....	Rep.	82
<b>Burroughs, Tom,</b> 3131 S. 73rd Terrace, Kansas City 66106 .....	Dem.	33
<b>Campbell, Larry L.,</b> 15954 S. Murlen Road, Suite 352, Olathe 66062 ....	Rep.	26
<b>Carlin, Sydney,</b> 1650 Sunny Slope Lane, Manhattan 66502 .....	Dem.	66
<b>Carmichael, John,</b> 1475 N. Lieunett, Wichita 67203 .....	Dem.	92
<b>Carpenter, Blake,</b> 2425 N. Newberry, Apt. 3202, Derby 67037 .....	Rep.	81
<b>Claeys, J.R.,</b> 2157 Redhawk Lane, Salina 67401 .....	Rep.	69
<b>Clark, Lonnie G.,</b> PO Box 991, Junction City 66441 .....	Rep.	65
<b>Clayton, Stephanie S.,</b> 9825 Woodson Drive, Overland Park 66207 ....	Rep.	19
<b>Concannon, Susan,</b> 921 N. Mill St., Beloit 67420 .....	Rep.	107
<b>Corbet, Ken,</b> 10351 SW 61st St., Topeka 66610 .....	Rep.	54
<b>Cox, Tom,</b> 13510 W. 72nd St., Shawnee 66216 .....	Rep.	17
<b>Crum, Steven,</b> 315 Linden Lane, Haysville 67060 .....	Dem.	98
<b>Curtis, Pam,</b> 322 N. 16th St., Kansas City 66102 .....	Dem.	32
<b>Davis, Erin,</b> 12018 S. Clinton St., Olathe 66061 .....	Rep.	15
<b>Deere, Debbie,</b> 402 Maple Court, Lansing 66043 .....	Dem.	40
<b>Delperdang, Leo G.,</b> 2103 N. Pintail St., Wichita 67235 .....	Rep.	94
<b>Dierks, Diana,</b> 1221 Sunrise Drive, Salina 67401 .....	Rep.	71
<b>Dietrich, Brenda,</b> 6110 SW 38th Terr., Topeka 66610 .....	Rep.	52
<b>Dove, Willie O.,</b> 14715 Timber Lane, Bonner Springs 66012 .....	Rep.	38
<b>Elliott, Roger,</b> 12015 E. Tamarac, Wichita 67206 .....	Rep.	87
<b>Ellis, Ronald B.,</b> 9199 Highway 4, Meriden 66512 .....	Rep.	47
<b>Eplee, John R.,</b> 163 Deer Run, Atchison 66002 .....	Rep.	63
<b>Esau, Keith,</b> 11702 S. Winchester St., Olathe 66061 .....	Rep.	14
<b>Finch, Blaine,</b> 5 SW Fairview Drive, Ottawa 66067 .....	Rep.	59
<b>Finney, Gail,</b> 1754 N. Madison Ave., Wichita 67214 .....	Dem.	84
<b>Francis, Shannon,</b> 1501 Tucker Court, Liberal 67901 .....	Rep.	125
<b>Frownfelter, Stan S.,</b> 5225 Crest Drive, Kansas City 66106 .....	Dem.	37
<b>Gallagher, Linda,</b> 7804 Monrovia St., Lenexa 66216 .....	Rep.	23
<b>Garber, Randy,</b> 2424 Timberline Terrace, Sabetha 66534 .....	Rep.	62
<b>Gartner, Jim,</b> 928 SW Woodbridge Court, Topeka 66606 .....	Dem.	53
<b>Good, Mary Martha,</b> 89 SE 20th St., El Dorado 67042 .....	Rep.	75
<b>Hawkins, Daniel,</b> 9406 Harvest Lane, Wichita 67212 .....	Rep.	100

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Helgerson, Henry</b> , 12 E. Peach Tree, Wichita 67207 .....	Dem.	83
<b>Henderson, Broderick</b> , 2710 N. 8th St., Kansas City 66101 .....	Dem.	35
<b>Hibbard, Larry</b> , 858 EE 75 Road, Toronto 66777 .....	Rep.	13
<b>Highberger, Dennis (Boog)</b> , 1024 New York, Lawrence 66044 .....	Dem.	46
<b>Highland, Ron</b> , 27487 Wells Creek Road Wamego 66547 .....	Rep.	51
<b>Hineman, Don</b> , 116 S. Longhorn Road, Dighton 67839 .....	Rep.	118
<b>Hodge, Tim C.</b> , 2727 N. Main, North Newton 67117 .....	Dem.	72
<b>Hoffman, Kyle D.</b> , 1318 Ave. T, Coldwater 67029 .....	Rep.	116
<b>Holscher, Cindy</b> , 12345 Westgate St., Overland Park 66213 .....	Dem.	16
<b>Houser, Michael</b> , 6891 SW 10th St., Columbus 66725 .....	Rep.	1
<b>Huebert, Steve</b> , 619 N. Birch, Valley Center 67147 .....	Rep.	90
<b>Humphries, Susan</b> , 8 Sagebrush, Wichita 67230 .....	Rep.	99
<b>Jacobs, Trevor</b> , 1927 Locust Rd., Fort Scott 66701 .....	Rep.	4
<b>Jennings, Russ</b> , 515 Pleasantview, Lakin 67860 .....	Rep.	122
<b>Johnson, Steven C.</b> , 10197 S. Hopkins Rd., Assaria 67416 .....	Rep.	108
<b>Jones, Kevin</b> , 416 E. 7th St., Wellsville 66092 .....	Rep.	5
<b>Judd-Jenkins, Anita</b> , 225 N. C St., Arkansas City 67005 .....	Rep.	80
<b>Karleskint, Jim</b> , 24542 Cantrell Rd., Tonganoxie 66086 .....	Rep.	42
<b>Kelly, Jim</b> , 309 S. 5th St., Independence 67301 .....	Rep.	11
<b>Kessinger, Jan H.</b> , 12605 Walmer St., Overland Park 66209 .....	Rep.	20
<b>Koesten, Joy</b> , 3310 W. 137th St., Leawood 66224 .....	Rep.	28
<b>Kuether, Annie</b> , 1346 SW Wayne Ave., Topeka 66604 .....	Dem.	55
<b>Lakin, Gregory</b> , 2825 W. Milro Circle, Wichita 67204 .....	Rep.	91
<b>Landwehr, Brenda K.</b> , 2611 N. Bayside Court, Wichita 67205 .....	Rep.	105
<b>Lewis, Greg</b> , 910 N.E. 30th Ave., St. John 67576 .....	Rep.	113
<b>Lusk, Nancy</b> , 7700 W. 83rd St., Overland Park 66204 .....	Dem.	22
<b>Lusker Sr., Adam J.</b> , 452 S. 210th St., Frontenac 66763 .....	Dem.	2
<b>Markley, Patty</b> , 12312 Nieman, Overland Park 66213 .....	Rep.	8
<b>Mason, Les</b> , 108 Arcadian Court, McPherson 67460 .....	Rep.	73
<b>Mastroni, Leonard A.</b> , 102 Fairway Dr., La Crosse 67548 .....	Rep.	117
<b>Miller, Vic</b> , 1174 S.W. Fillmore, Topeka 66604 .....	Dem.	58
<b>Murnan, Monica</b> , 1313 Mallory Court, Pittsburg 66762 .....	Dem.	3
<b>Neighbor, Cindy</b> , 10405 W. 52nd Terr., Shawnee 66203 .....	Dem.	18
<b>Ohaebosim, KC</b> , P.O. Box 21271 Wichita 67208 .....	Dem.	89
<b>Orr, Boyd</b> , 30111 H Road, Fowler 67844 .....	Rep.	115
<b>Osterman, Leslie</b> , 1401 W. Dallas Wichita 67217 .....	Rep.	97
<b>Ousley, Jarrod</b> , 6800 Farley St., Merriam 66203 .....	Dem.	24
<b>Parker, Brett</b> , 9807 W. 104th St., Overland Park 66212 .....	Dem.	29
<b>Patton, Fred C.</b> , 339 N.E. 46th, Topeka 66617 .....	Rep.	50
<b>Phelps, Eber</b> , 3103 Olympic Ln., Hays 67601 .....	Dem.	111
<b>Phillips, Tom</b> , 1530 Barrington Dr., Manhattan 66503 .....	Rep.	67
<b>Pittman, Jeff</b> , 1108 S. Broadway, Leavenworth 66048 .....	Dem.	41
<b>Powell, Randy</b> , 14481 W. 122nd St., Olathe 66062 .....	Rep.	30
<b>**Probst, Jason</b> , 1202 Prairie St., Hutchinson 67501 .....	Dem.	102
<b>Proehl, Rich</b> , 510 Pine Ridge Rd., Parsons 67357 .....	Rep.	7
<b>+Rafie, Abraham B.</b> , 14513 Floyd St., Overland Park 66223 .....	Rep.	48
<b>Rahjes, Ken</b> , 1798 E. 900 Road, Agra 67621 .....	Rep.	110

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
<b>Ralph, Brad</b> , 2009 Frederick Dr., Dodge City 67801 .....	Rep.	119
<b>++Resman, John</b> , 434 N. Persimmon Dr., Olathe 66061 .....	Rep.	121
<b>Rooker, Melissa A.</b> , 4124 Brookridge Dr., Fairway 66205 .....	Rep.	25
<b>Ruiz, Louis E.</b> , 2914 W. 46th Ave., Kansas City 66103 .....	Dem.	31
<b>Ryckman Jr., Ron</b> , 14234 W. 158th St., Olathe 66062 .....	Rep.	78
<b>Sawyer, Tom</b> , 1041 S. Elizabeth St., Wichita 67213 .....	Dem.	95
<b>Schreiber, Mark</b> , 1722 Yucca Lane, Emporia 66801 .....	Rep.	60
<b>Schroeder, Don</b> , 708 Charles St., Hesston 67062 .....	Rep.	74
<b>Schwab, Scott J.</b> , 14953 W. 140th Terr., Olathe 66062 .....	Rep.	49
<b>Seiwert, Joe</b> , 1111 E. Boundary Rd., Pretty Prairie 67570 .....	Rep.	101
<b>Sloan, Tom</b> , 772 Highway 40, Lawrence 66049 .....	Rep.	45
<b>Smith, Adam W.</b> , 1970 RD 3, Weskan 67762 .....	Rep.	120
<b>Smith, Eric L. 627 Kennebec St.</b> , Burlington 66839 .....	Rep.	76
<b>Stogsdill, Jerry W.</b> , 4414 Tomahawk Rd., Prairie Village 66208 .....	Dem.	21
<b>Sutton, William (Bill)</b> , 301 W. Westhoff Pl., Gardner 66030 .....	Rep.	43
<b>Swanson, Susie</b> , 1422 5th St., Clay Center 67432 .....	Rep.	64
<b>Tarwater Sr., Sean E.</b> , 16006 Meadow Lane, Stilwell 66085 .....	Rep.	27
<b>Thimesch, Jack</b> , 11716 SW 80th St., Spivey 67142 .....	Rep.	114
<b>Thompson, Kent L.</b> , 1816 2800 St., LaHarpe 66751 .....	Rep.	9
<b>Trimmer, Ed</b> , 1402 E. 9th Ave., Winfield 67156 .....	Dem.	79
<b>Vickrey, Jene</b> , 502 S. Countryside Dr., Louisburg 66053 .....	Rep.	6
<b>Victors, Ponka-We</b> , P.O. Box 48081, Wichita 67201 .....	Dem.	103
<b>Ward, Jim</b> , 3100 E. Clark, Wichita 67211 .....	Dem.	86
<b>Waymaster, Troy L.</b> , 3528 192nd St., Bunker Hill 67626 .....	Rep.	109
<b>Weber, Chuck</b> , 2331 N. Winstead Circle, Wichtia 67226 .....	Rep.	85
<b>Weigel, Virgil</b> , 1900 S.W. Briarwood Dr., Topeka 66611 .....	Dem.	56
<b>Wheeler Jr., John P.</b> , 902 Anderson St., Garden City 67846 .....	Rep.	123
<b>Whipple, Brandon</b> , 2925 S. Walnut St., Wichita 67217 .....	Dem.	96
<b>Whitmer, John R.</b> , 12905 W. Red Rock, Wichita 67235 .....	Rep.	93
<b>Williams, Kristey S.</b> , 506 Stone Lake Court, Augusta 67010 .....	Rep.	77
<b>Wilson, John</b> , 1923 Ohio St., Lawrence 66046 .....	Dem.	10
<b>Winn, Valdenia C.</b> , P.O. Box 12327, Kansas City 66112 .....	Dem.	34
<b>Wolfe Moore, Kathy</b> , 3209 N. 131st St., Kansas City 66109 .....	Dem.	36

\* Jesse Burriss sworn in on June 1 to replace Pete DeGraaf

\*\* Jason Probst sworn in on June 26 to replace Patsy Terrell, deceased

+ Abraham Rafie sworn in on January 10 to replace Marvin Kleeb

++ John Resman sworn in on February 16 to replace Mike Kiegerl



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**Anthony Hensley** ..... Minority Leader  
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**Scott Schwab** ..... Speaker Pro Tem  
**Don Hineman** ..... Majority Leader  
**Jim Ward** ..... Minority Leader  
**Susan W. Kannarr** ..... Chief Clerk  
**Foster Chisholm** ..... Sergeant at Arms

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President of the Senate: **Susan Wagle**, Wichita, Vice-Chairman  
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Senate Majority Leader: **Jim Denning**, Overland Park  
House Majority Leader: **Don Hineman**, Dighton  
Senate Minority Leader: **Anthony Hensley**, Topeka  
House Minority Leader: **Jim Ward**, Wichita

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# 2017 SESSION LAWS OF KANSAS

## CHAPTER 1

HOUSE BILL No. 2017  
(Amended by Chapter 3)

AN ACT concerning elections; dealing with vacancies in the office of United States representative to congress; amending K.S.A. 25-3502, 25-3504 and 25-3507 and repealing the existing sections.

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

Section 1. K.S.A. 25-3502 is hereby amended to read as follows: 25-3502. (a) Except as is otherwise provided in this act, the governor shall proclaim the date of any election held under this act to be a day not less than ~~45~~ 75 days nor more than ~~60~~ 90 days after such proclamation is issued. ~~Such~~ The proclamation shall be made in writing, signed by the governor and delivered by ~~him~~ the governor to the secretary of state. ~~Thereupon~~ The secretary of state shall promptly cause ~~such~~ the proclamation to be published in the Kansas register, and a copy thereof shall be transmitted by the secretary to the chairperson of all state political parties authorized to hold congressional district conventions under the provisions of K.S.A. 25-3504, and amendments thereto.

(b) *The amendments made by this act to this section shall be effective on and after January 1, 2017.*

Sec. 2. K.S.A. 25-3504 is hereby amended to read as follows: 25-3504. (a) Whenever a vacancy has occurred to which this act applies, except in cases where ~~subsection (c) or (d) of K.S.A. 25-3503(b) or (c),~~ and amendments thereto, applies, a congressional district convention of the district party of each political party ~~whose candidate for governor received not less than 5% of the votes cast at the next preceding election of the governor that has obtained official recognition~~ shall be called by the state chairperson of the party, or if there is no state chairperson, by the party's candidate for governor at the next preceding general election. ~~Such~~ The convention shall be called for a date not less than 15 days and not more than 25 days after the proclamation of election is issued by the governor in the cases to which K.S.A. 25-3503, and amendments thereto, does not apply, and within 15 days in cases to which ~~subsection (a) or (b) of K.S.A. 25-3503(a) or (b),~~ and amendments thereto, apply. In accordance with the rules of the district party and the provisions of this act, each ~~such~~ convention shall nominate a candidate to fill the vacancy which has oc-

curred and shall file a certificate of the nomination ~~so made~~ with the secretary of state immediately. Every ~~such~~ certificate shall be signed by the presiding officer and secretary of the convention making ~~such the~~ nomination. Independent candidates may be nominated by petition of registered voters of the district equal in number to ~~4% of the number of~~ *not less than 3,000* qualified voters of the congressional district. *Such petitions may not be circulated for signatures prior to the governor proclaiming the date of the election.* Any such petition shall be filed with the secretary of state not later than ~~the time for district party convention certificates to be filed~~ *25 days after the proclamation of election is issued by the governor.* Except as is provided in ~~subsections (c) and (d) of K.S.A. 25-3503(b) or (c), and amendments thereto,~~ no candidate shall be nominated to fill such vacancy by any means other than provided by this section.

*(b) The amendments made by this act to this section shall be effective on and after January 1, 2017.*

Sec. 3. K.S.A. 25-3507 is hereby amended to read as follows: 25-3507. *(a)* In cases to which ~~subsection (c) or (d) of K.S.A. 25-3503(b) or (c), and amendments thereto,~~ apply, canvass of the election shall be conducted as for other elections of United States congressmen. In all other cases to which this act applies, intermediate canvass of the election shall be made by the county boards of canvassers at ~~ten o'clock 10:00~~ a.m. on the ~~second~~ *third* day following the election, unless such day is a Sunday or holiday, in which case ~~such the~~ canvass shall be on the next following day which is not a Sunday or holiday. County election officers shall dispatch the abstract of the intermediate canvass to the secretary of state immediately upon completion of the canvass by the board of county canvassers. The state board of canvassers shall meet in the office of the secretary of state on the ~~fourth~~ *sixth* day following the election, unless such day is a Sunday or holiday, in which case ~~such the~~ canvass shall be on the next following day which is not a Sunday or holiday. The state board of canvassers shall make the final canvass, and the certificate of election of the candidate receiving the highest number of votes shall be issued in the same manner as is provided for regular elections of national officers.

*(b) The amendments made by this act to this section shall be effective on and after January 1, 2017.*

Sec. 4. K.S.A. 25-3502, 25-3504 and 25-3507 are hereby repealed.

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

Approved January 18, 2017.

Published in the *Kansas Register* January 18, 2017.

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## CHAPTER 2

## SENATE BILL No. 22

AN ACT concerning insurance; relating to third party administrators; regulation; amending K.S.A. 40-3801, 40-3802, 40-3804, 40-3806, 40-3807, 40-3808, 40-3809 and 40-3810 and K.S.A. 2016 Supp. 40-3805 and repealing the existing sections; also repealing K.S.A. 40-3803.

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

New Section 1. K.S.A. 40-3801, 40-3802, 40-3804 through 40-3810 and sections 1 through 6, and amendments thereto, shall be known and may be cited as the third party administrators act.

New Sec. 2. (a) A person shall apply to be an administrator in its home state and shall receive a license from the regulatory authority of its home state prior to performing any function of an administrator in this state.

(b) A person applying to Kansas as its home state shall apply for licensure by submitting to the commissioner an application in the form prescribed by the commissioner that shall include or be accompanied by the following information and documents:

(1) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, certificate of existence from the Kansas secretary of state and other applicable documents and all amendments to such documents;

(2) the bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

(3) NAIC biographical affidavits for the individuals who are directly or indirectly responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholders or members holding directly or indirectly 10% or more of the voting stock, voting securities or voting interest of the applicant and any other person who directly or indirectly exercises control or influence over the affairs of the applicant;

(4) audited annual financial statements or reports for the two most recent fiscal years that demonstrate that the applicant has a positive net worth. If the applicant has been in existence for less than two fiscal years, the uniform application shall include financial statements or reports, certified by at least two officers, owners or directors of the applicant and prepared in accordance with GAAP, for any completed fiscal years and for any month during the current fiscal year for which such financial statements or reports have been completed. An audited annual financial report prepared on a consolidated basis shall include a columnar consol-

idating or combining worksheet that shall be filed with the report and include the following:

(A) Amounts shown on the consolidated audited financial report shown on the worksheet;

(B) amounts for each entity stated separately; and

(C) explanations of consolidating and eliminating entries included.

The applicant shall also include such other information as the commissioner may require in order to review the current financial condition of the applicant;

(5) in lieu of submitting audited financial statements, and upon written application by an applicant and good cause shown, the commissioner may grant a hardship exemption from filing audited financial statements and allow the submission of unaudited financial statements. Acceptable formats for unaudited financial statements, that shall include notes, are:

(A) Reports compiled or reviewed by a certified public accountant; or

(B) internal financial reports prepared in accordance with GAAP, certified by at least two officers, owners or directors of the administrator.

If unaudited financial statements are submitted, the applicant must also secure and maintain a surety bond in a form prescribed by the commissioner for the use and benefit of the commissioner to be held in trust for the benefit and protection of covered persons and any payor or self-funded plan against loss by reason of acts of fraud or dishonesty, for the greater of 10% of funds handled for the benefit of Kansas residents or \$20,000. Administrators of self-funded plans in Kansas are subject to the mandatory surety bond requirement found in subsection (h), regardless of whether they file audited or unaudited financial reports;

(6) a statement describing the business plan, including information on staffing levels and activities, proposed in this state and nationwide. The plan shall provide details setting forth the applicant's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping and underwriting;

(7) the license application fee as provided for by rules and regulations; and

(8) such other pertinent information as may be required by the commissioner.

(c) An administrator licensed or applying for licensure under the provisions of this section shall make available for inspection by the commissioner, copies of all contracts with payors or other persons utilizing the services of the administrator.

(d) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and makes its officers available to give information with respect to its affairs, as often as reasonably required by the commissioner.

(e) The commissioner may refuse to issue a license if the commis-

sioner determines that the applicant or any individual responsible for the conduct of affairs of the applicant is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance or an administrator certificate of authority or license denied or revoked for cause by any jurisdiction, or if the commissioner determines that any of the grounds set forth in K.S.A. 40-3810, and amendments thereto, exist with respect to the applicant.

(f) A license issued under this section shall remain valid, unless surrendered, suspended or revoked by the commissioner, for so long as the administrator continues in business in this state and remains in compliance with the provisions of this act and any applicable rules and regulations.

(g) An administrator licensed or applying for licensure under the provisions of this section shall immediately notify the commissioner of any material change in its ownership, control or other fact or circumstance affecting its qualification for a license in this state.

(h) An administrator licensed or applying for a home state license that administers or will administer governmental or church self-insured plans in this state or any other state shall maintain a surety bond for the use and benefit of the commissioner to be held in trust for the benefit and protection of covered persons and any payor or self-funded plan against loss by reason of acts of fraud or dishonesty. The bond shall be in the greater of the following amounts:

(1) \$100,000; or

(2) an amount equal to 10% of the aggregate total amount of self-funded coverage under church plans or governmental plans handled in this state and all additional states in which the administrator is authorized to do business.

New Sec. 3. (a) Unless an administrator has obtained a home state license in this state, any administrator who performs duties as an administrator in this state shall obtain a nonresident administrator license in accordance with the provisions of this section by filing with the commissioner the uniform application, accompanied by a letter of certification. In lieu of requiring an administrator to file a letter of certification with the uniform application, the commissioner may verify the nonresident administrator's home state certificate of authority or license status through an electronic database maintained by the NAIC, its affiliates or subsidiaries.

(b) An administrator shall not be eligible for a nonresident administrator license under the provisions of this section if it does not hold a license in a home state that has adopted a substantially similar law governing administrators.

(c) Except as provided in subsections (b) and (h) the commissioner

shall issue to the administrator a nonresident administrator license promptly upon receipt of a complete application.

(d) Each nonresident administrator shall file biennially, as a part of its application for renewal of its license, a statement that its home state administrator license remains in force and has not been revoked or suspended by its home state during the preceding years.

(e) At the time of filing the application for licensing required under the provisions of this section, the nonresident administrator shall pay a license application fee as provided for by rules and regulations.

(f) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the commissioner.

(g) A nonresident administrator is not required to hold a nonresident administrator license in this state if the administrator is licensed in its home state and the administrator's duties in this state are limited to:

(1) The administration of a group policy or plan and no more than a total of 20% of covered persons, for all plans the administrator services, reside in this state; and

(2) the total number of covered persons residing in this state is less than 100.

(h) The commissioner may refuse to issue a nonresident administrator license, or delay the issuance of a nonresident administrator license, if the commissioner determines that, due to events or information obtained subsequent to the home state's licensure of the administrator, the nonresident administrator cannot satisfy the requirements of this act or that grounds exist for the home state's revocation or suspension of the administrator's home state certificate of authority or license.

New Sec. 4. (a) Each administrator licensed under the provisions of this act shall file an annual report for the preceding calendar year with the commissioner on or before July 1 of each year, or within such extension of time as the commissioner may grant for good cause. The annual report shall include:

(1) An audited financial statement attested to by an independent certified public accountant. An audited annual financial report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

(A) Amounts shown on the consolidated audited financial report shown on the worksheet;

(B) amounts for each entity stated separately; and

(C) explanations of consolidating and eliminating entries included.

(2) In lieu of submitting an audited financial statement, and upon written application by an administrator and good cause shown, the commissioner may grant a hardship exemption from filing audited financial



statements and allow the submission of unaudited financial statements. Acceptable formats for unaudited financial statements, that shall include notes, are:

(A) Reports compiled or reviewed by a certified public accountant; or

(B) internal financial reports prepared in accordance with GAAP, certified by at least two officers, owners or directors of the administrator.

If unaudited financial statements are submitted, the administrator must secure and maintain a surety bond in a form prescribed by the commissioner for the use and benefit of the commissioner to be held in trust for the benefit and protection of covered persons and any payor or self-funded plan against loss by reason of acts of fraud or dishonesty, for the greater of 10% of funds handled for the benefit of Kansas residents or \$20,000.

(b) The annual report shall be in the form and contain such matters as the commissioner prescribes and shall be verified by at least two officers, owners or directors of the administrator.

(c) The annual report shall include the complete names and addresses of all payors and for self-funded plans, all employers and trusts, with which the administrator had agreements during the preceding fiscal year. The report shall also include the number of Kansas residents covered by each of the plans.

New Sec. 5. (a) The license of an administrator shall be denied, suspended or revoked if the commissioner finds that the administrator:

(1) Is in an unsound financial condition;

(2) is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public; or

(3) has failed to pay any judgment rendered against it in this state within 60 days after the judgment has become final.

(b) The commissioner may deny, suspend or revoke the license of an administrator if the director finds that the administrator:

(1) Has violated any lawful rule or regulation or order of the commissioner or any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto;

(2) has refused to be examined or to produce its accounts, records and files for examination, or if any individual responsible for the conduct of affairs of the administrator, including members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholder or member holding directly or indirectly 10% or more of the voting stock, voting securities or voting interest of the administrator and any other person who exercises control or influence

over the affairs of the administrator, has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to an examination, when required by the commissioner;

(3) has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused covered individuals to accept less than the amount due them or caused covered individuals to employ attorneys or bring suit against the administrator to secure full payment or settlement of such claims;

(4) fails, at any time, to meet any qualification for which issuance of the license could have been refused had the failure then existed and been known to the commissioner;

(5) any of the individuals responsible for the conduct of its affairs, including members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholder or member holding directly or indirectly 10% or more of its voting stock, voting securities or voting interest and any other person who exercises control or influence over its affairs, has been convicted of, or has entered a plea of guilty or nolo contendere to any felony, or to a misdemeanor that evidences bad moral character, dishonesty, a lack of integrity and financial responsibility or an unfitness and inability to provide acceptable service to the consuming public without regard to whether adjudication was withheld; or

(6) is under suspension or revocation in another state.

(c) The commissioner may, in the commissioner's discretion and without advance notice or hearing, immediately suspend the license of an administrator, if the commissioner finds that one or more of the following circumstances exist:

(1) The administrator is insolvent or impaired;

(2) a proceeding for receivership, conservatorship, rehabilitation or other delinquency proceeding regarding the administrator has been commenced in any state;

(3) the financial condition or business practices of the administrator otherwise pose an imminent threat to the public health, safety or welfare of the residents of this state; or

(4) a final order suspending or revoking the administrator's license in its home state has been entered.

(d) If the commissioner finds that one or more grounds exist for the suspension or revocation of a license issued under the provisions of this act, the commissioner may, in lieu of or in addition to suspension or revocation, impose an administrative penalty upon the administrator pursuant to the Kansas administrative procedure act.

New Sec. 6. Any policies, certificates, booklets, termination notices

or other written communications delivered by the payor to the administrator for delivery to insured parties or covered individuals shall be delivered by the administrator promptly after receipt of instructions from the payor to deliver them.

Sec. 7. K.S.A. 40-3801 is hereby amended to read as follows: 40-3801. *As used in this act:*

(a) ~~Wherever the term “Administrator” or “third party administrator” or “TPA” is used in this act, it shall mean~~ *means any person, company, corporation, partnership or other legal entity who directly or indirectly underwrites, collects charges or premiums from, or who adjusts or settles claims on, residents of this state in connection with life or accident and sickness, annuity or health insurance coverage or annuities other than offered or provided by a payor, except any of the following:*

(1) ~~An employer on behalf of its employees or the employees of one or more, or a wholly owned direct or indirect subsidiary or affiliated corporations of such of an employer, on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of such employer.~~

(2) A union or association on behalf of its members;

(3) ~~An insurance company which that is either licensed~~ *authorized to transact insurance in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it such company in and pursuant to the laws of a state in which the insurer was authorized to do transact an insurance business, or organizations transacting business in this state pursuant to articles 18, 19, 19a, 19b or 32 of chapter 40, Kansas Statutes Annotated, including their sales representatives a hospital, medical, dental or optometric service corporation or a health care service organization, including their sales representatives, possessing a valid certificate of authority in this state when engaged in the performance of their duties as such.*

(4) ~~A life or accident and sickness agent~~ *An insurance producer licensed to sell life, annuities or health coverage in this state whose activities are limited exclusively to the sale and service, solicitation and negotiation of insurance;*

(5) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(6) A trust, its trustees, agents and employees acting ~~thereunder, pursuant to such trust~~ established in conformity with 29 U.S.C. § 186;

(7) A trust exempt from taxation under section 501(a) of the internal revenue code, its trustees, and employees acting ~~thereunder, pursuant to such trust~~ or a custodian, ~~its and the custodian’s~~ agents and or employees acting pursuant to a custodian account which meets the requirements of section 401(f) of the internal revenue code;

(8) ~~A bank, credit union or other a financial institution which that is~~

subject to supervision or examination by federal or state banking authorities, or a mortgage lender, to the extent they collect and remit premiums to licensed insurance producers or to limited lines producers or authorized insurers in connection with loan payments.

(9) A credit card issuing company ~~which~~ *that* advances for and collects premiums or charges from its credit card holders who have authorized it to do so, provided such company does not adjust or settle claims, ~~or such collection.~~

(10) A person who adjusts or settles claims in the normal course of ~~his or her~~ *that* person's practice or employment as an attorney at law; and who does not collect charges or premiums in connection with life ~~or~~ accident and sickness insurance coverage or annuities, annuity or health insurance coverage.

(11) A person licensed as a managing general agent in this state whose activities are limited to the scope of activities conveyed under such license.

(12) A person who is affiliated with an insurer and who acts solely as an administrator for the direct and assumed insurance business of an affiliated insurer. The insurer is responsible for the acts of the administrator and is responsible for providing all of the administrator's books and records to the commissioner upon a request from the commissioner. For purposes of this paragraph, "insurer" means a licensed insurance company, hospital or professional service corporation or a managed care organization.

(b) "Affiliate" or "affiliated" means an entity or person who, directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(c) "Business entity" means a corporation, association, partnership, limited liability company or other legal entity.

(d) "Collateral" means funds, letters of credit or any item with economic value owned by the payor but held by an insurer or TPA in case it needs to be used to fulfill premium or loss reimbursement obligations in accordance with a contract between the insurer or TPA and the payor. "Collateral" shall also include anticipated loss prepayments made prior to the payment of losses, pursuant to arrangements where reimbursement is not due until after losses have been paid.

(e) "Commissioner" means the commissioner of insurance of the state of Kansas.

(f) "Control," "controlling," "controlled by" and "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or

*holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in K.S.A. 40-3305, and amendments thereto, that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.*

(g) *“GAAP” means United States generally accepted accounting principles consistently applied.*

(h) *“Home state” means the United States jurisdiction that has adopted this act or a substantially similar law governing TPAs and that has granted the TPA a home state TPA license.*

(i) *“Insurance producer” means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, and also includes a business entity whose primary activities are the sales, solicitation and negotiation of insurance.*

(j) *“Insurer” means a person undertaking to provide life, annuity or health coverage or self-funded coverage who is subject to regulation under chapter 40 of the Kansas Statutes Annotated, and amendments thereto.*

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

(l) *“Nonresident TPA” means a TPA with a home state other than Kansas.*

(m) *“Payor” means an insurer or an employer administering its employee benefit plan or the employee benefit plan of an affiliated employer under common management or control.*

(n) *“Person” means an individual or a business entity.*

(o) *“Stop-loss insurance” means insurance protecting an employer or other person responsible for an otherwise self-insured health or life benefit plan against obligations under the plan, but “stop-loss insurance” does not include reinsurance written for an insurance company.*

(p) *“Underwrites” or “underwriting” means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer or self-funded plan, or the overall planning and coordinating of a benefits program.*

(q) *“Uniform application” means the current version of the NAIC uniform application for third party administrators.*

Sec. 8. K.S.A. 40-3802 is hereby amended to read as follows: 40-3802.

(a) No administrator shall act as such without a written agreement between the administrator and the insurer, and such written agreement shall be retained as part of the official records of both the insurer and the administrator for the duration of the agreement and five ~~(5)~~ years thereafter. Such written agreement shall contain provisions which include the

requirements of K.S.A. ~~40-3803, 40-3805 to through 40-3809, inclusive and amendments thereto~~, except insofar as those requirements do not apply to the functions performed by the administrator.

(b) ~~Where a policy is issued to a trustee or trustees, a copy of the trust agreement and any amendments thereto shall be furnished to the insurer by the administrator and shall be retained as part of the official records of both the insurer and the administrator for the duration of the policy and five (5) years thereafter. The written agreement shall include a statement of duties that the administrator is expected to perform on behalf of the insurer and the lines, classes or types of insurance for which the administrator is to be authorized to administer. The agreement shall make provision with respect to underwriting or other standards pertaining to the business underwritten by the insurer.~~

(c) *The insurer or administrator may, with written notice to the other party and the commissioner, terminate the written agreement as provided in the agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of any dispute regarding the termination of the written agreement. The insurer shall fulfill any lawful obligations with respect to policies affected by the written agreement regardless of any dispute between the insurer and the administrator.*

Sec. 9. K.S.A. 40-3804 is hereby amended to read as follows: 40-3804. ~~Whenever an~~ *If an insurer utilizes the services of an administrator under the terms of a written contract as required in K.S.A. 40-3802, the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer; and the payment of return premiums or claims forwarded by the insurer to the administrator shall not be deemed payment to the insured or claimant until such payments are received by the insured or claimant. Nothing herein shall limit any right of the insurer against the administrator resulting from its failure to make payments to the insurer, insureds or claimants.*

Sec. 10. K.S.A. 2016 Supp. 40-3805 is hereby amended to read as follows: 40-3805. (a) ~~Every administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in K.S.A. 40-3802 and five years thereafter adequate and make available to the payor complete books and records of all transactions between it, insurers and insured persons performed on behalf of the payor. Such books and records shall be maintained in accordance with prudent standards of insurance record keeping and shall be maintained for a period of not less than five years from the date of their creation.~~

(b) ~~The commissioner of insurance shall have access to such books and records for the purpose purposes of examination, audit and inspection. Any information contained therein which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq., and amendments~~

thereto), including, but not limited to, the identity and addresses of policyholders and certificateholders. Any documents, materials or other information in the possession or control of the commissioner that are furnished by a TPA, payor, insurance producer or an employee or agent thereof acting on behalf of the TPA, payor or insurance producer or obtained in an investigation, shall be confidential, ~~except by law and privileged~~, shall not be subject to the open records act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The commissioner ~~may~~ is authorized to use such documents, materials or other information in any proceedings instituted against the administrator. The insurer shall retain the right to continuing access to such books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and administrator on the proprietary rights of the parties in such books and records the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The provisions of this paragraph shall expire on July 1, 2022, unless the legislature reviews and reenacts this provision prior to July 1, 2022.

(c) Neither the commissioner nor any person who receives documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning confidential documents, materials or information subject to subsection (b).

(d) In order to assist in the performance of the commissioner's duties, the commissioner may:

(1) Share documents, materials or other information, including the confidential and privileged documents, materials or other information subject to this section, with other state, federal and international regulatory agencies, the NAIC, its affiliates or subsidiaries and with state, federal and international law enforcement authorities, provided the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information; and

(2) may receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the NAIC, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section.

(f) Nothing in this section shall prohibit the commissioner from re-

*leasing final, adjudicated actions, including for cause terminations that are open to public inspection pursuant to the open records act, to a database or other clearinghouse service maintained by the NAIC, its affiliates or subsidiaries.*

(g) *The payor shall own the records generated by the administrator pertaining to the payor, however, the administrator shall retain the right to continuing access to books and records to permit the administrator to fulfill all of its contractual obligations to insured parties, claimants and the payor, and its obligations to maintain records available to the commissioner.*

(h) *In the event the payor and the administrator cancel their agreement, notwithstanding the provisions of subsection (a), the administrator may, by written agreement with the payor, transfer all records to a new administrator rather than retain them for five years. In such cases, the new administrator shall acknowledge, in writing, that it is responsible for retaining the records of the prior administrator as required in subsection (a).*

Sec. 11. K.S.A. 40-3806 is hereby amended to read as follows: 40-3806. An administrator may use only such advertising pertaining to the business underwritten by an insurer as has been approved by such insurer in advance of its use. *An administrator that mentions any current or former client in its advertising must obtain the client's prior written consent.*

Sec. 12. K.S.A. 40-3807 is hereby amended to read as follows: 40-3807. (a) ~~All insurance charges or premiums, collateral and loss reimbursements collected by an administrator on behalf of or for an insurer or insurers a payor, and the return of premiums or collateral received from such insurer or insurers that payor, shall be held by the administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled thereto, or shall be deposited promptly in a bank fiduciary account established and maintained by the administrator in a federally or state-insured financial institution. If charges or premiums so deposited have been collected on behalf of or for more than one (1) insurer, the administrator shall maintain records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer. The written agreement between the administrator and the payor shall provide for the administrator to periodically render an accounting to the payor detailing all transactions performed by the administrator pertaining to the business of the payor, and the written agreement between the payor and the administrator shall include specifications of this reporting.~~

(b) ~~The administrator shall keep copies of all such records of any fiduciary account maintained or controlled by the administrator, and, upon request of an insurer a payor, shall furnish such insurer the payor~~



with copies of such records pertaining to deposits and withdrawals on behalf of ~~or for such insurer~~ the payor. *If charges or premiums so deposited have been collected on behalf of or for more than one payor, or for the payment of claims associated with more than one policy, the administrator shall keep records clearly recording the deposits in and withdrawals from the account on behalf of each payor and relating to each policyholder.*

(c) The administrator shall not pay any claim by withdrawals from ~~such a fiduciary account in which premiums or charges are deposited.~~ Withdrawals from ~~the funds deposited in such a fiduciary account~~ shall be made; as provided in the written agreement between the administrator and the ~~insurer~~ payor, and only for the following purposes: (1) Remittance to an insurer entitled thereto; (2) deposit in an account maintained in the name of ~~such insurer~~, the payor; (3) transfer to and deposit in a claims paying account, with claims to be paid as provided in ~~K.S.A. 40-3809, subsection (d)~~; (4) payment to a group policyholder for remittance to the ~~insurer~~ payor entitled thereto; (5) payment to the administrator of its ~~commission~~ earned commissions, fees or charges, ~~or~~; (6) remittance of return premiums to the person or persons entitled thereto; ~~or~~ (7) *payment to other service providers as authorized by the payor.*

(d) *All claims paid by the administrator from funds collected on behalf of or for a payor shall be paid only as authorized by the payor. Payments from an account maintained or controlled by the administrator may be made for the following purposes including the payment of claims: (1) Payment of valid claims; (2) payment of expenses associated with the handling of claims to the administrator or to other service providers approved by the payor; (3) remittance to the payor, or transfer to a successor administrator as directed by the payor, for the purpose of paying claims and associated expenses; and (4) return of funds held as collateral or prepayment, to the person entitled to those funds, upon a determination by the payor that those funds are no longer necessary to secure or facilitate the payment of claims and associated expenses.*

Sec. 13. K.S.A. 40-3808 is hereby amended to read as follows: 40-3808. ~~Any policies or certificates which an administrator adjusts or settles, the compensation to the administrator with regard to such policies shall in no way be contingent on claim experience. This section shall not prevent the compensation of an administrator from being based on premiums or charges collected or number of claims paid or processed~~ (a) *An administrator shall not enter into an agreement or understanding with a payor in which the effect is to make the amount of the administrator's commissions, fees or charges contingent upon savings effected by the adjustment, settlement and payment of losses covered by the payor's obligations. This provision shall not prohibit an administrator from receiving performance-based compensation for providing hospital or other auditing*

services, from providing managed care or related services, or from being compensated for subrogation expenses.

(b) *This section shall not prevent the compensation of an administrator from being based on premiums or charges collected or the number of claims paid or processed.*

Sec. 14. K.S.A. 40-3809 is hereby amended to read as follows: 40-3809. (a) *Where the services of an administrator are utilized, the administrator shall provide a written notice, approved by the payor, to covered individuals advising them of the identity of and relationship among the administrator, the policyholder and the payor.*

(b) *When an administrator collects funds, it must identify and state separately in writing to the person paying to the administrator any charge or premium for insurance coverage the amount of any such charge or premium specified by the insurer for such insurance coverage. All claims paid by the administrator from funds collected on behalf of the insurer shall be paid only on drafts of and as authorized by such insurer the reason for collection of each item shall be identified to the insured party and each item shall be shown separately from any premium. Additional charges may not be made for services to the extent the services have already been paid for by the payor.*

(c) *The administrator shall disclose to the payor all charges, fees and commissions that the administrator receives arising from services it provides for the payor, including any fees or commissions paid by payors providing reinsurance or stop-loss insurance.*

Sec. 15. K.S.A. 40-3810 is hereby amended to read as follows: 40-3810. ~~No person shall act as or hold oneself out to be an administrator in this state, unless such person holds a certificate of registration as an administrator issued by the commissioner of insurance. Application for such certificate shall be made to the commissioner on a form prescribed by such commissioner and shall be accompanied by a filing fee of \$100. Such certificate may be continued for successive annual periods by notifying the commissioner of such intent and payment of a \$50 continuation fee. Such certificate shall be issued or continued by the commissioner to an administrator unless the commissioner after due notice and hearing shall have determined that the administrator is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had a previous application for an insurance license denied for cause within five years.~~

~~Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act A person who is not required to be licensed as an administrator under this act and who directly or indirectly underwrites, collects charges or premiums from or adjusts or settles claims on residents of this state only in connection with life, annuity or health coverage provided by a self-funded plan other than~~

*a governmental or church plan, shall register with the commissioner annually, verifying its status as herein described. This section shall not apply to an insurer or to an individual performing these actions as an employee of an insurer. This section shall also not apply to a person performing these actions under contract to or as an employee of an administrator.*

Sec. 16. K.S.A. 40-3801, 40-3802, 40-3803, 40-3804, 40-3806, 40-3807, 40-3808, 40-3809 and 40-3810 and K.S.A. 2016 Supp. 40-3805 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 1, 2017.

Published in the *Kansas Register* March 9, 2017.

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### CHAPTER 3

#### SENATE BILL No. 43 (Amends Chapter 1)

AN ACT concerning elections; dealing with vacancies in the office of United States representative to congress; amending K.S.A. 25-3504, as amended by section 2 of 2017 House Bill No. 2017 and 25-3507, as amended by section 3 of 2017 House Bill No. 2017 and repealing the existing sections.

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

Section 1. K.S.A. 25-3504, as amended by section 2 of 2017 House Bill No. 2017, is hereby amended to read as follows: 25-3504. (a) Whenever a vacancy has occurred to which this act applies, except in cases where K.S.A. 25-3503(b) or (c), and amendments thereto, applies, a congressional district convention of the district party of each political party that has obtained official recognition shall be called by the state chairperson of the party, or if there is no state chairperson, by the party's candidate for governor at the next preceding general election. The convention shall be called for a date not less than 15 days and not more than 25 days after the proclamation of election is issued by the governor in the cases to which K.S.A. 25-3503, and amendments thereto, does not apply, and within 15 days in cases to which K.S.A. 25-3503(a) or (b), and amendments thereto, apply. In accordance with the rules of the district party and the provisions of this act, each convention shall nominate a candidate to fill the vacancy which has occurred and shall file a certificate of the nomination with the secretary of state immediately. Every certificate shall be signed by the presiding officer and secretary of the convention making the nomination. Independent candidates may be nominated by petition of ~~registered voters of the district equal in number to~~ not less than 3,000 qualified ~~voters~~ *electors* of the congressional district. Such petitions may

not be circulated for signatures prior to the governor proclaiming the date of the election. Any such petition shall be filed with the secretary of state not later than 25 days after the proclamation of election is issued by the governor. Except as is provided in K.S.A. 25-3503(b) or (c), and amendments thereto, no candidate shall be nominated to fill such vacancy by any means other than provided by this section.

(b) The amendments made by this act to this section shall be effective on and after January 1, 2017.

Sec. 2. K.S.A. 25-3507, as amended by section 3 of 2017 House Bill No. 2017, is hereby amended to read as follows: 25-3507. (a) ~~In cases to which K.S.A. 25-3503(b) or (c), and amendments thereto, apply, The canvass of the election shall be conducted as for other elections of United States congressmen. In all other cases to which this act applies, intermediate canvass of the election shall be made by the county boards of canvassers at 10:00 a.m. on the third day following the election, unless such day is a Sunday or holiday, in which case the canvass shall be on the next following day which is not a Sunday or holiday provided in K.S.A. 25-3104, and amendments thereto.~~ County election officers shall dispatch the abstract of the intermediate canvass to the secretary of state immediately upon completion of the canvass by the board of county canvassers. The state board of canvassers shall meet in the office of the secretary of state on the ~~sixth~~ *third* day following the *intermediate canvass of the election held in all counties*, unless such day is a Sunday or holiday, in which case the canvass shall be on the next following day which is not a Sunday or holiday. The state board of canvassers shall make the final canvass, and the certificate of election of the candidate receiving the highest number of votes shall be issued in the same manner as is provided for regular elections of national officers.

(b) The amendments made by this act to this section shall be effective on and after January 1, 2017.

Sec. 3. K.S.A. 25-3504, as amended by section 2 of 2017 House Bill No. 2017 and 25-3507, as amended by section 3 of 2017 House Bill No. 2017 are hereby repealed.

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

Approved March 20, 2017.

Published in the *Kansas Register* March 23, 2017.

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## CHAPTER 4

## HOUSE BILL No. 2387

AN ACT concerning sales and compensating use tax; exemption for repairing, rebuilding or replacing certain property destroyed by wildfires; amending K.S.A. 2016 Supp. 79-3606d and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 79-3606d is hereby amended to read as follows: 79-3606d. (a) The following shall be exempt from the tax imposed by the Kansas retailers' sales tax act: All sales of tangible personal property and services purchased during calendar ~~year 2016~~ *years 2017 and 2018*, necessary to ~~construct~~, reconstruct, repair or replace any fence ~~which that~~ was damaged or destroyed by ~~fire~~ *wildfires* occurring during calendar ~~year~~ *years 2016 and 2017*, and the purpose for which is to enclose land devoted to agricultural use. Sales tax paid on and after January 1, ~~2016~~ *2017*, ~~but prior to the effective date of this act~~ upon the gross receipts received from any such sale shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this section. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee. *Any person reconstructing, repairing or replacing such property, or any person who shall contract for the reconstruction, repair or replacement of any such property shall obtain from the state an exemption certificate for the project involved. The certificate shall be furnished to the person or contractor to purchase materials and lease machinery and equipment for such project. The person or contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the person that obtained the exemption certificate, a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection.*

(b) The provisions of this section shall be deemed to be supplemental to the Kansas retailers' sales tax act.

Sec. 2. K.S.A. 2016 Supp. 79-3606d is hereby repealed.

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

Approved March 22, 2017.

Published in the *Kansas Register* March 23, 2017.

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## CHAPTER 5

### HOUSE BILL No. 2109°

AN ACT concerning the disposition of state real property; authorizing the state board of regents on behalf of Kansas state university to sell certain real property in Riley county; authorizing the state board of regents on behalf of Wichita state university to exchange and convey certain real property in Sedgwick county.

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

Section 1. (a) The state board of regents is hereby authorized and empowered, for and on behalf of Kansas state university to sell and convey all of the rights, title and interest subject to all easements and appurtenances in the following described real estate located in Riley county, Kansas: A tract of land in the Southwest Quarter of Section 35, Township 9 South, Range 7 East of the 6th P.M., described as follows: BEGINNING at the Northeast corner of said Quarter Section, the East line having an assumed bearing of North 00 degrees 18 minutes East; FIRST COURSE, thence South 89 degrees 20 minutes West, 163.7 feet along the North line of said Quarter Section; SECOND COURSE: thence South 00 degrees 11 minutes East, 1869.4 feet; THIRD COURSE: thence South 16 degrees 56 minutes East to a point on the said East line, 300 feet North of the Southeast corner of said Quarter Section; FOURTH COURSE: thence North 00 degrees 18 minutes East along said East line to the place of beginning. The above contains 7.51 acres (7.49 acres Measured), more or less, exclusive of the existing highway.

(b) Conveyance of such rights, title and interest in such real estate shall be executed in the name of the state board of regents by its chairperson and executive officer. All proceeds from the sale and conveyance thereof shall be deposited in the Marlatt memorial park restricted use account of Kansas state university to be used for maintenance of such park.

(c) No conveyance of real estate authorized by this section shall be made or accepted by the state board of regents until the deeds, titles and conveyances have been reviewed and approved by the attorney general. In the event that the state board of regents determines that the legal description of the real estate described in this section is incorrect, the state board of regents may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the

approval of the attorney general. The conveyance authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a, and amendments thereto, or K.S.A. 2016 Supp. 75-6609, and amendments thereto.

Sec. 2. (a) The state board of regents is hereby authorized and empowered, for and on behalf of Kansas state university to sell and convey all of the rights, title and interest subject to all easements and appurtenances in the following described real estate located in Riley county, Kansas: The real property described as Tract A, Kansas State University Addition, an addition to the City of Manhattan, Kansas located in Section 7, Township 10 South, Range 8 East of the 6th Principal Meridian, in the City of Manhattan, Riley County, Kansas, as set forth in Plat Book K, page 677, in the office of Register of Deeds of Riley County, Kansas.

(b) Conveyance of such rights, title and interest in such real estate shall be executed in the name of the state board of regents by its chairperson and executive officer. All proceeds from the sale and conveyance thereof shall be deposited in the restricted fees account of Kansas state university.

(c) No conveyance of real estate authorized by this section shall be made or accepted by the state board of regents until the deeds, titles and conveyances have been reviewed and approved by the attorney general. In the event that the state board of regents determines that the legal description of the real estate described in this section is incorrect, the state board of regents may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general. The conveyance authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a, and amendments thereto, or K.S.A. 2016 Supp. 75-6609, and amendments thereto.

Sec. 3. (a) The state board of regents is hereby authorized and empowered, for and on behalf of Kansas state university, to sell and convey all of the rights, title and interest subject to all easements and appurtenances in the following described real estate located in Riley county, Kansas: Lot 3, Kansas State University Addition, an Addition to the City of Manhattan, Riley County, Kansas, filed of record at the Riley County Register of Deeds office on September 16, 2010, in Book K, on Page 677.

(b) Conveyance of such rights, title and interest in such real estate shall be executed in the name of the state board of regents by its chairperson and executive officer. All proceeds from the sale and conveyance thereof shall be deposited in the restricted fees account of Kansas state university.

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

description of the real estate described in this section is incorrect, the state board of regents may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general. The conveyance authorized by this section shall not be subject to the provisions of K.S.A. 75-3043a, and amendments thereto, or K.S.A. 2016 Supp. 75-6609, and amendments thereto.

Sec. 4. (a) The state board of regents, for and on behalf of Wichita state university, is hereby authorized to exchange and convey the real property described in subsection (b) in consideration for the real property described in subsection (c) along with other good and valuable consideration negotiated between the parties.

(b) In accordance with the provisions of this section, the state board of regents is hereby authorized to exchange and convey the following described real property located in Sedgwick county, Kansas:

A parcel of land in the Northeast Quarter of Section 11, Township 27 South, Range 1 East of the Sixth Principal Meridian, Wichita, Sedgwick County, Kansas described as follows:

Beginning at the Southwest corner of Lot 1, Wheatshocker Addition to Wichita, Sedgwick County, Kansas; thence bearing North 00 degrees 00 minutes 00 seconds East along the West line of said Lot 1 for a distance of 160.00 feet; thence bearing North 89 degrees 39 minutes 30 seconds East, parallel with the South line of said Lot 1, for a distance of 80.00 feet; thence bearing North 00 degrees 00 minutes 00 seconds East parallel with the West line of said Lot 1 for a distance of 6.00 feet; thence bearing North 89 degrees 39 minutes 30 seconds East, parallel with the South line of said Lot 1, for a distance of 62.00 feet; thence bearing South 00 degrees 00 minutes 00 seconds West, parallel with the West line of said Lot 1, for a distance of 166.00 feet to the South line of said Lot 1; thence bearing South 89 degrees 39 minutes 30 seconds West, along the South line of said Lot 1, for a distance of 142.00 feet to the Point of Beginning; said Parcel encompassing 0.53 acres, more or less (23,092 square feet, more or less).

(c) In accordance with the provisions of this section, Wichita state university is hereby authorized to accept title to the following described real property located in Sedgwick county, Kansas to be conveyed to Wichita state university: Beginning at a point 200 feet north of the SW corner of the NE/4 of Section 11, Township 27 South, Range 1 East, thence north 150 feet; thence east 80 feet; thence south 150 feet; thence west to the point of beginning, together with the right of ingress and egress to and from the same. LESS: The Southernmost 6 feet of the above described property.

(d) The exchange and conveyance of real property by the state board of regents under this section shall be executed in the name of the state board of regents by its chairperson and executive officer. The deed for



such conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the state board of regents in consultation with the attorney general. No exchange and conveyance of real estate and improvements thereon as authorized by this section shall be made by the state board of regents until the deeds and conveyances have been reviewed and approved by the attorney general and, if warranty deeds are to be the instruments of conveyance, title reviews have been performed or title insurance has been obtained and the title opinion or the certificates of title insurance, as the case may be, have been approved by the attorney general. In the event that the state board of regents determines that the legal description of the real estate described in this section is incorrect, the state board of regents may convey the property utilizing the correct legal description but the deed conveying the property shall be subject to the approval of the attorney general. The conveyance authorized by this section shall not be subject to the provisions of K.S.A. 2016 Supp. 75-6609, and amendments thereto.

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

Approved March 28, 2017.

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## CHAPTER 6

### SENATE BILL No. 17

AN ACT concerning insurance; enacting the fair access to insurance requirements plan act; amending K.S.A. 40-2101 and repealing the existing section.

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

New Section 1. (a) This act shall be known and may be cited as the fair access to insurance requirements plan act, or the FAIR plan act.

(b) The purpose of this act is to make available basic property and casualty insurance to persons having property interests in this state who are in good faith entitled to, but who are unable to, procure such coverage through the voluntary market. The FAIR plan shall provide for the equitable distribution and placement of risks among all member insurers who have voluntarily elected to participate and shall operate subject to the provisions and conditions of this act. This act supersedes the prior authority of the FAIR plan to act under K.S.A. 40-2101, and amendments thereto.

(c) All policies shall be issued on the forms and in accordance with the reasonable rates and rating procedures approved by the commissioner of insurance.

(d) All policies shall be issued for a term of one year.

(e) Within 60 days of the filing of the proposed rates, the commissioner of insurance shall enter an order either approving or disapproving, in whole or in part, the rate plan filed. The commissioner of insurance may, upon notice to the facility, extend the period for entering an order for an additional 30 days. No policies or endorsements shall be issued applying the proposed rates until such time as the commissioner of insurance approves such rates. An order disapproving a rate shall state the grounds for the disapproval and the findings in support thereof.

(f) The commissioner of insurance may adopt rules and regulations to administer the provisions of this act. Any such rules and regulations deemed necessary shall be promulgated no later than January 1, 2018.

Sec. 2. K.S.A. 40-2101 is hereby amended to read as follows: 40-2101. *Except as provided in section 1, and amendments thereto*, agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith, entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance provided that such apportionment agreements and rate modifications are approved by the commissioner of insurance.

Sec. 3. K.S.A. 40-2101 is hereby repealed.

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

Approved March 28, 2017.

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## CHAPTER 7

### SENATE BILL No. 66

AN ACT concerning state boards, commissions and authorities; relating to the state banking board; terms of service; amending K.S.A. 74-3004 and repealing the existing section.

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

Section 1. K.S.A. 74-3004 is hereby amended to read as follows: 74-3004. (a) There is hereby created a state banking board which shall be composed of nine members. Six members of the board shall be bankers with not less than five years' actual banking experience in a state bank in this state and three shall represent the public interest in the regulation, operation and control of state banks and trust companies. All members representing the public interest shall be selected from the state at large. No nonbanker member shall concurrently serve as an officer or director in any state or national bank or trust company wherever located. One of the nine members shall be elected annually as chairperson of the board.

The board shall be appointed by the governor. Persons appointed to the board shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate. No more than five members of the board shall be from the same political party. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, of the six banker members, the governor shall appoint one from each Kansas congressional district as presently constituted and the remainder from the state at large. Appointment of nonbanker members shall be made with due consideration for achieving representation of the various geographic sectors of the state.

(b) ~~Except as provided by subsection (c),~~ (1) Terms of members of the board shall be for three years. Each member shall serve until a successor is appointed and confirmed. *Except as provided in paragraph (2),* no person shall serve more than two *full three-year* terms as a member of the board.

(2) In the event of a vacancy on the board, the governor shall appoint a new member of the same qualification to fill the unexpired term. *The mid-term appointment of a new board member to serve an unexpired term created by such a vacancy shall not be considered a full term for purposes of the two-term limit.*

~~(c) The terms of members who are serving on the board on the effective date of this act shall expire on March 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, Members shall be appointed for terms of three years and until their successors are appointed and confirmed.~~

Sec. 2. K.S.A. 74-3004 is hereby repealed.

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

Approved March 28, 2017.

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CHAPTER 8  
SENATE BILL No. 15

AN ACT concerning insurance; relating to risk-based capital instructions; effective date; amending K.S.A. 2016 Supp. 40-2c01 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

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

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

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

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

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

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

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

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

(i) “RBC” means risk-based capital.

(j) “RBC instructions” means the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2015~~ 2016, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 2016 Supp. 40-2c29, and amendments thereto.

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

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

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

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

(4) “mandatory control level RBC” means the product of 0.70 and the authorized control level RBC.

(l) “RBC plan” means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner’s recommendation, the plan shall be called the “revised RBC plan.”

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

(n) “Total adjusted capital” means the sum of:

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

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

(o) “Commissioner” means the commissioner of insurance.

Sec. 2. K.S.A. 2016 Supp. 40-2c01 is hereby repealed.

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

Approved March 28, 2017.

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CHAPTER 9

SENATE BILL No. 166

AN ACT concerning higher education; relating to private and out-of-state educational institutions; exempting Cleveland university-Kansas City; amending K.S.A. 2016 Supp. 74-32,164 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 74-32,164 is hereby amended to read as follows: 74-32,164. The Kansas private and out-of-state postsecondary educational institution act shall not apply to:

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

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

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

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

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

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

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

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

(i) *Cleveland university-Kansas City*;

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

(~~j~~)*(k)* any institution that does not have a physical presence in Kansas and that is otherwise subject to this act, but only to the extent that and for the period of time that such institution is participating in the state authorization reciprocity agreement as authorized under K.S.A. 2016 Supp. 74-32,194, and amendments thereto, for the purpose of providing distance education to students in this state. As used in this subsection, the term “distance education” has the meaning ascribed thereto in K.S.A. 2016 Supp. 74-32,194, and amendments thereto.

Sec. 2. K.S.A. 2016 Supp. 74-32,164 is hereby repealed.

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

Approved March 28, 2017.

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## CHAPTER 10

### SENATE BILL No. 68°

AN ACT concerning health and healthcare; relating to hospitals; enacting the Kansas lay caregiver act.

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

Section 1. (a) This section shall be known and may be cited as the Kansas lay caregiver act.

(b) As used in this section:

(1) “Aftercare” means assistance that:

(A) Is provided by a caregiver to an eligible patient after discharge of the patient from a hospital;

(B) is related to the condition of the patient at the time of discharge; and

(C) does not require professional licensure pursuant to chapter 65 of the Kansas Statutes Annotated, and amendments thereto, in order to perform the assistance.

(2) “Caregiver” means an individual who:

(A) Is 16 years of age or older;

(B) has a significant relationship with the patient, including, but not limited to, next of kin, partner, friend or neighbor;

(C) provides aftercare to an individual; and

(D) is identified by the patient, or the patient’s legal guardian, as a person who is involved with the healthcare of the patient.

(3) “Discharge” means the release of a patient from hospital care to the residence or another location identified by the patient or legal guardian as the temporary residence of the patient following an inpatient admission.

(4) “Hospital” means the same as defined by K.S.A. 65-425, and amendments thereto.

(5) “Legal guardian” means an individual who is appointed by a court to make decisions regarding the healthcare of a patient.

(6) “Patient” means an individual who has been admitted to a hospital for inpatient care.

(7) “Residence” means the dwelling that the patient considers to be the home of the patient, but does not include any rehabilitative facility, hospital, nursing home, assisted living facility, group home or any other healthcare facility licensed by the department of health and environment.

(c) (1) A hospital shall provide each patient, or the patient’s legal guardian, with an opportunity to designate a caregiver following the patient’s admission into the hospital and prior to the discharge of the patient.

(2) Prior to discharge, a patient may elect to change the patient’s designated caregiver in the event that the original designated caregiver becomes unavailable, unwilling or unable to care for the patient.

(3) Nothing in this section shall be construed to require an individual that has been designated as a caregiver by a patient to accept the role of caregiver.

(4) Nothing in this section shall be construed to require a patient to designate a caregiver.

(5) A hospital shall be deemed to have complied in full with the requirements of this subsection if the patient or the patient’s legal guardian:

(A) Declines to designate a caregiver when given the opportunity; or

(B) objects to the disclosure of medical information to the caregiver regarding the patient.

(d) (1) If a patient has designated a caregiver, the hospital shall notify the designated caregiver concerning the discharge or transfer of the patient to another licensed facility as soon as practicable prior to discharge or transfer.

(2) In the event that the hospital is unable to contact the designated caregiver, such lack of contact shall not interfere with, delay or otherwise affect the medical care or appropriate discharge provided to the patient, consultation with the caregiver or discharge instructions.

(3) As soon as practicable prior to the discharge of the patient, the hospital shall attempt to consult with the designated caregiver to prepare the caregiver to provide aftercare for the patient. The hospital shall provide the designated caregiver and the patient an opportunity to ask questions during the consultation.

(4) At or before discharge, the hospital shall:

(A) Provide the caregiver with any discharge instructions for the patient, including any aftercare needs of the patient; and

(B) educate the caregiver concerning the aftercare of the patient in a manner that is consistent with current accepted practices, based on the learning needs of the caregiver and that allows the caregiver the opportunity to ask questions about any aftercare tasks.

(5) In the event that the hospital is unable to contact the designated caregiver, such lack of contact shall not interfere with, delay or otherwise affect an appropriate discharge of the patient.

(e) This section shall not be construed to:

(1) Confer upon a caregiver any authority to make healthcare decisions on behalf of a patient;

(2) create a private right of action against a hospital, hospital employee or duly authorized agent of the hospital for any acts or omissions pursuant to this section, including any acts or omissions by a caregiver;

(3) remove the obligation of a third-party payer to cover a healthcare item or service that the third-party payer is obligated to provide to a patient under the terms of a valid agreement, insurance policy, plan, certification of coverage or health maintenance organization contract; or

(4) provide grounds for any adverse licensure action or other disciplinary action against any hospital by the department of health and environment, against any licensee of the state board of healing arts or against any licensee of the board of nursing.

Sec. 2. This act shall take effect and be in force from and after July 1, 2018, and its publication in the statute book.

Approved March 28, 2017.

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## CHAPTER 11

## HOUSE BILL No. 2192

AN ACT renaming Lake Scott state park; amending K.S.A. 2016 Supp. 32-837 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 32-837 is hereby amended to read as follows: 32-837. (a) The following parks have been designated as a part of the state park system: (1) Kanopolis-Mushroom Rock state park in Ellsworth county; (2) Cross Timbers state park at Toronto Lake in Woodson county; (3) Fall River state park in Greenwood county; (4) Cedar Bluff state park in Trego county; (5) Tuttle Creek state park in Pottawatomie and Riley counties; (6) Pomona state park in Osage county; (7) Cheney state park in Kingman and Reno counties; (8) Lake Crawford state park in Crawford county; (9) Lovewell state park in Jewell county; (10) Lake Meade state park in Meade county; (11) Prairie Dog state park in Norton county; (12) Webster state park in Rooks county; (13) Wilson state park in Russell county; (14) Milford state park in Geary county; (15) *Historic* Lake Scott state park in Scott county; (16) Elk City state park in Montgomery county; (17) Perry state park in Jefferson county; (18) Glen Elder state park in Mitchell county; (19) El Dorado state park in Butler county; (20) Eisenhower state park in Osage county; (21) Clinton state park in Douglas and Shawnee counties; (22) Sand Hills state park in Reno county; (23) Hilldale state park in Miami county; (24) Kaw River state park in Shawnee county; and (25) Prairie Spirit rail trail state park in Franklin, Anderson and Allen counties.

(b) No state park named in subsection (a) shall be removed from the state park system without legislative approval.

(c) The hours that Kaw River state park in Shawnee county is open to the public may be limited to those hours that parks of the city of Topeka are open, except that such state park shall be open at all hours for prescheduled events.

Sec. 2. K.S.A. 2016 Supp. 32-837 is hereby repealed.

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

Approved March 29, 2017.

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## CHAPTER 12

## SENATE BILL No. 32

AN ACT relating to mental health care; medical student and resident loan assistance; medical student loan agreements; practice commitment agreements; providing for agreements for the practice of psychiatry; establishing the psychiatry medical loan repayment fund and the rural health bridging psychiatry fund; concerning mental healthcare facilities; amending K.S.A. 76-387 and 76-12a07 and K.S.A. 2016 Supp. 75-3373, 76-381, 76-382, 76-383, 76-384 and 76-385 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 76-381 is hereby amended to read as follows: 76-381. As used in K.S.A. 76-380 through 76-386, and amendments thereto:

- (a) “Act” means the medical student loan act;
- (b) “approved postgraduate residency training program” means a residency training program in general pediatrics, general internal medicine, family medicine, family practice, emergency medicine, *general psychiatry*, *child psychiatry* or fellowship training in geriatric medicine;
- (c) “service commitment area” means: (1) Any community within any county in Kansas other than Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county; (2) any state medical care facility or institution; (3) any medical center operated by the veterans administration of the United States; (4) the full-time faculty of the university of Kansas school of medicine in family medicine ~~or~~, family practice, *general psychiatry* or *child psychiatry*; or (5) any community within Wyandotte county for purposes of any practice obligation under an agreement entered into by a person who is enrolled for the first time after July 1, 2004, in a course of study leading to the medical degree; and
- (d) “state medical care facility or institution” includes, but is not limited to, the Kansas state school for the visually handicapped, the Kansas state school for the deaf, any institution under the secretary for aging and disability services, as defined by ~~subsection (b) of~~ K.S.A. 76-12a01, and amendments thereto, any institution under the commissioner of juvenile justice as defined by K.S.A. 2016 Supp. 38-2302, and amendments thereto, the Kansas soldiers’ home, the Kansas veterans’ home and any correctional institution under the secretary of corrections, as defined by ~~subsection (d) of~~ K.S.A. 75-5202, and amendments thereto, but shall not include any state educational institution under the state board of regents, as defined by ~~subsection (a) of~~ K.S.A. 76-711, and amendments thereto, except as specifically provided by statute.

Sec. 2. K.S.A. 2016 Supp. 76-382 is hereby amended to read as follows: 76-382. (a) There is hereby established the medical student loan program at the university of Kansas school of medicine.

(b) Subject to the provisions of appropriation acts, the university of Kansas school of medicine may make medical student loans in accordance

with the provisions of this act to undergraduate students enrolled in or admitted to the university of Kansas school of medicine in a course of instruction leading to the degree of doctor of medicine who enter into a written medical student loan agreement with the university of Kansas school of medicine in accordance with K.S.A. 76-383, and amendments thereto.

(c) Each medical student loan agreement under this act shall provide to the person receiving the loan the payment of all tuition and a stipend for living expenses in an amount of up to \$2,000 per month for each month enrolled in such school during a year. Subject to the maximum amount, the amount of the monthly stipend shall be determined on an annual basis by the student receiving the loan.

(d) Subject to the provisions of appropriation acts, medical student loan agreements under this act may be entered into on an annual basis and shall provide the payment of the amounts specified under subsection (c) for one year unless otherwise terminated before such period of time. Subject to the provisions of appropriation acts, an undergraduate student enrolled in or admitted to the university of Kansas school of medicine in a course of instruction leading to the degree of doctor of medicine may receive a separate loan under this act for each separate year the student enters into a written medical student loan agreement with the university of Kansas school of medicine in accordance with K.S.A. 76-383, and amendments thereto. Loans may be awarded retroactively for any academic year that a student has completed successfully at the university of Kansas medical school, but for which a loan had not previously been awarded. Retroactive loans shall be in an amount equal to the amount of tuition paid by the student, plus a stipend in an amount not to exceed the maximum amount of the stipend for such academic year multiplied by the number of months for which the student was enrolled at the medical school during such year. For each separate year a student receives a loan under this act, the student shall engage in the full-time practice of medicine and surgery in an appropriate service commitment area for a period of 12 months unless such obligation is otherwise satisfied as provided in K.S.A. 76-386, and amendments thereto.

(e) Medical student loans shall be awarded on a priority basis as follows, first to qualified applicants who are Kansas residents at the time of entry into the university of Kansas school of medicine, and second, to qualified applicants who are not Kansas residents at the time of entry into the university of Kansas school of medicine. As used in this subsection, "Kansas residents" means persons who meet the residence requirements established in K.S.A. 76-729, and amendments thereto.

(f) *Subject to appropriations, the university of Kansas school of medicine shall enter into medical student loan agreements with six individuals who commit to satisfy obligations to engage in the full-time practice of medicine and surgery in a service commitment area by: (1) Serving as a*

*full-time faculty member of the university of Kansas school of medicine in general psychiatry or child psychiatry pursuant to K.S.A. 76-384(c), and amendments thereto; or (2) performing at least 100 hours per month of on-site mental health care pursuant to K.S.A. 76-384(d), and amendments thereto.*

Sec. 3. K.S.A. 2016 Supp. 76-383 is hereby amended to read as follows: 76-383. A medical student loan agreement entered into by the university of Kansas school of medicine and an undergraduate student enrolled in or admitted to the university of Kansas school of medicine in a course of instruction leading to the degree of doctor of medicine for the purpose of receiving a medical student loan under this act shall require that the person receiving the loan:

(a) Complete the required course of instruction and receive the degree of doctor of medicine and apply for, enter and complete an approved postgraduate residency training program;

(b) apply for and obtain a license to practice medicine and surgery in Kansas;

(c) engage in the full-time practice of medicine and surgery for a period of 12 months within a service commitment area, except as otherwise provided in ~~subsection (c) of~~ K.S.A. 76-384(c), and amendments thereto, for service as a full-time faculty member of the university of Kansas school of medicine in family medicine ~~or~~, family practice, *general psychiatry or child psychiatry*;

(d) commence such full-time practice of medicine and surgery within nine months after completion of an approved postgraduate residency training program and licensure in a service commitment area and continue such full-time practice in such service commitment area for a consecutive period of months equal to the total number of months required under the agreement;

(e) agree that the service commitment for each agreement entered into under this act is in addition to the service commitment contained in any other agreement which has been or may be entered into under this act for the purpose of obtaining a medical student loan or under other agreements for the purpose of obtaining scholarship aid;

(f) maintain records and make reports to the university of Kansas school of medicine to document the satisfaction of the obligation under such agreement to engage in the full-time practice of medicine and surgery within a service commitment area and to continue such full-time practice in such service commitment area for a consecutive period of months equal to the total number of months required under the agreement; and

(g) upon failure to satisfy an agreement to engage in the full-time practice of medicine and surgery within a service commitment area for the required period of time under any such agreement, the person re-

ceiving a medical student loan under this act shall repay amounts to the university of Kansas school of medicine as provided in K.S.A. 76-385, and amendments thereto.

Sec. 4. K.S.A. 2016 Supp. 76-384 is hereby amended to read as follows: 76-384. (a) Upon the selection of a service commitment area for the purposes of satisfying a service obligation under a medical student loan agreement entered into under this act, the person so selecting shall inform the university of Kansas school of medicine of the service commitment area selected.

(b) A person serving in a service commitment area pursuant to any agreement under this act may serve all or part of any commitment in the service commitment area initially selected by such person. If such person moves from one service commitment area to another service commitment area, such person shall notify the university of Kansas school of medicine of such person's change of service commitment area. Service in any such service commitment area shall be deemed to be continuous for the purpose of satisfying any agreement entered into under this act.

(c) A person receiving a medical student loan under this act, may satisfy the obligation to engage in the full-time practice of medicine and surgery in a service commitment area if the person serves as a full-time faculty member of the university of Kansas school of medicine in general internal medicine, general pediatrics, family medicine ~~or~~, family practice, *general psychiatry or child psychiatry* and serves two years for each one year of such obligation, or the equivalent thereof on a two-for-one basis, except that, at the time any person commences satisfying such service obligation as a full-time faculty member pursuant to this subsection, the number of persons satisfying service commitments or service obligations, pursuant to agreements under the medical student loan act, as full-time faculty members pursuant to this subsection shall not exceed the number equal to 25% of the total number of full-time faculty members of the university of Kansas school of medicine in general internal medicine, general pediatrics, family medicine ~~or~~, family practice, *general psychiatry or child psychiatry*.

(d) A person may satisfy the obligation to engage in the full-time practice of medicine and surgery in a service commitment area by performing at least 100 hours per month of on-site primary care *or mental health care* at a medical facility operated by a local health department or nonprofit organization in this state serving medically indigent persons *or at a community mental health center or at Larned state hospital, Osawatomie state hospital or any facility that provides mental health services and that is operated by a state agency*. As used in this subsection, "medically indigent" means a person: (1) Who is unable to secure health care because of inability to pay for all or a part of the costs thereof due to inadequate personal resources, being uninsured, being underinsured, be-

ing ineligible for governmental health benefits; or (2) who is eligible for governmental benefits but is unable to obtain medical services; and “primary care” means general pediatrics, general internal medicine, family medicine and family practice.

Sec. 5. K.S.A. 2016 Supp. 76-385 is hereby amended to read as follows: 76-385. (a) (1) Except as otherwise provided in paragraphs (2), (3), (4) and (5) ~~of this subsection (a)~~ or in K.S.A. 76-386, and amendments thereto, upon the failure of any person to satisfy the obligation to engage in the full-time practice of medicine and surgery within a service commitment area of this state for the required period of time under any medical student loan agreement entered into under this act, such person shall repay to the university of Kansas school of medicine in accordance with subsection (b) an amount equal to the total of: (A) The amount of money received by such person pursuant to such agreement, or the amount of money determined under rules and regulations of the university of Kansas; plus (B) annual interest at a rate of 15% from the date such money was received.

(2) Any person who fails to apply for and enter an approved post-graduate residency training program shall be required to repay all moneys received pursuant to an agreement entered into for any such medical student loan, plus accumulated interest at an annual rate of 15% and shall commence such repayment in accordance with subsection (b) within 90 days of graduation from the school of medicine or upon termination or completion of a residency training program which does not comply with the provisions of this act, whichever is later.

(3) If at any time a person is failing to satisfy an obligation to engage in the full-time practice of medicine and surgery in Kansas for the required period of time under an agreement entered into under this act because such person is engaged in the full-time practice of medicine and surgery in a state other than Kansas, or within Kansas in an area that is not a service commitment area or in the practice of medicine and surgery which does not otherwise comply with the agreement entered into under this act, and if such person is subject to or currently making repayments under this section and if such person subsequently commences the practice of medicine and surgery in this state which is in a service commitment area or which otherwise complies with the agreement entered into under this act, the balance of the repayment amount, including interest thereon, from the time of such commencement of practice until the obligation of such person is satisfied, or until the time such person again becomes subject to repayments, shall be waived. All repayment amounts due prior to such commencement of practice, including interest thereon, shall continue to be payable as provided in this section. If subsequent to such commencement of practice, the person fails to satisfy such obligation, the

person again shall be subject to repayments, including interest thereon, as otherwise provided in this section.

(4) If, during the time a person is satisfying the service requirement of an agreement entered into under this act, such person desires to engage in less than the full-time practice of medicine and surgery within a service commitment area of the state and remain in satisfaction of such service requirement, such person may make application to the chancellor of the university of Kansas or the designee of the chancellor for permission to engage in less than such full-time practice of medicine and surgery. Upon a finding of exceptional circumstances made by the chancellor of the university of Kansas, or the designee of the chancellor, such person may be authorized to engage in less than the full-time practice of medicine and surgery within a service commitment area of the state for the remaining required period of time under such agreement and for an additional period of time which shall be equal to the length of the originally required period of time multiplied by the decimal fraction which is equal to the reduction of the full-time practice of medicine and surgery to be authorized hereunder, multiplied by two. In any such determination of the period required to be engaged in the less than full-time practice of medicine and surgery, the decimal fraction utilized shall not exceed 0.5 and any person granted permission to engage in less than the full-time practice of medicine and surgery in accordance with the provisions of this paragraph ~~(4)~~ shall be required to engage in at least the half-time practice of medicine and surgery.

(5) Any person who enters but fails to complete an approved postgraduate residency training program, or who enters and completes an approved postgraduate residency training program but fails to satisfy the obligation to engage in the full-time practice of medicine and surgery within a service commitment area of this state for the required period of time shall be required to repay all money received pursuant to an agreement entered into under this act a medical student loan, plus accumulated interest at an annual rate of 15% and shall commence such repayment in accordance with subsection (b) within 90 days of failure to complete an approved postgraduate residency training program or 90 days of failure to commence qualifying practice, whichever occurs first.

(b) For any repayment requirement under this section, the person shall repay an amount totaling the entire amount to be repaid under all such agreements for which such obligations are not satisfied, including all amounts of interest at the rate prescribed. The repayment shall be made in not more than 10 equal annual installment payments.

(c) All installment payments under this section shall commence six months after the date of the action or circumstance that causes the failure of the person to satisfy the obligations of such agreements, as determined by the university of Kansas school of medicine based upon the circumstances of each individual case. In all cases, if an installment payment

becomes 91 days overdue, the entire amount outstanding shall become immediately due and payable, including all amounts of interest at the rate prescribed.

(d) The total repayment obligation imposed under all agreements entered into under this act may be satisfied by the person who entered into the agreements at any time prior to graduation from the university of Kansas school of medicine by making a single lump-sum payment equal to the total of: (1) The entire amount to be repaid under all such agreements upon failure to satisfy the obligations under such agreements to practice in Kansas; plus (2) all amounts of interest thereon at the rate prescribed to the date of payment.

(e) The university of Kansas school of medicine 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 medical loan repayment fund.

(f) There is hereby created in the state treasury the medical loan repayment fund. All expenditures from the medical loan repayment fund shall be for medical student loans under the medical student loan act and for the expenses of administration of the medical student loan act and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chancellor of the university of Kansas or by a person designated by the chancellor, *except that expenditures shall not be made from the medical loan repayment fund for medical student loans for general psychiatry or child psychiatry*. On the effective date of this act, the director of accounts and reports shall transfer all moneys in the medical scholarship and loan repayment fund to the medical loan repayment fund. On the effective date of this act, all liabilities of the medical scholarship and loan repayment fund are hereby imposed on the medical loan repayment fund and the medical scholarship and loan repayment fund is hereby abolished. Whenever the medical scholarship and loan repayment fund, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the medical loan repayment fund.

(g) *There is hereby established in the state treasury the psychiatry medical loan repayment fund. All moneys credited to the psychiatry medical loan repayment fund shall be expended only for medical student loans for general psychiatry or child psychiatry students under the medical student loan act and for the expenses of administration of the medical student loan act associated with such students. All expenditures from the psychiatry medical loan repayment 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 chancellor of the university of Kansas or the chancellor's designee.*



(h) *Notwithstanding any other provision of law to the contrary, no moneys shall be transferred from the comprehensive grant program account of the state board of regents to the medical loan repayment fund or the psychiatry medical loan repayment fund or expended for any purposes related thereto.*

Sec. 6. K.S.A. 76-387 is hereby amended to read as follows: 76-387.

(a) There is hereby established the Kansas medical residency bridging program at the university of Kansas school of medicine which shall be developed and implemented in order to provide encouragement, opportunities and incentives for persons in primary care *or mental health care* residency training programs in general pediatrics, general internal medicine, family medicine ~~or, family practice, which~~ *general psychiatry or child psychiatry* that are operated by or affiliated with the university of Kansas school of medicine or other such primary care *or mental health care* residency training program ~~which~~ *that* is operated in Kansas and approved by the state board of healing arts and a person under subsection (i) to locate their medical practice in rural Kansas communities upon completion of such residency training. The Kansas medical residency bridging program shall be administered by the institute for rural health care of the university of Kansas school of medicine.

(b) Subject to the provisions of appropriation acts, the university of Kansas school of medicine may enter into residency bridging loan agreements, in accordance with the provisions of this section: (A) With any person who has completed the first year of a primary care *or mental health care* residency training program in general pediatrics, general internal medicine, family medicine ~~or, family practice, which~~ *general psychiatry or child psychiatry* that is operated by or affiliated with the university of Kansas school of medicine or other such primary care *or mental health care* residency training program ~~which~~ *that* is operated in Kansas and approved by the state board of healing arts; and (B) with a person under subsection (i).

(c) Subject to the provisions of appropriation acts, each person entering into a residency bridging loan agreement under this section shall receive a payment of \$5,000 each year of primary care *or mental health care* residency training, or any part of a year of such training, after the date that the residency bridging loan agreement is entered into by the resident and the university of Kansas school of medicine and, upon completion of the primary care *or mental health care* residency training program, a payment of \$6,000.

(d) Each residency bridging loan agreement shall require that the person receiving the loan:

(1) Complete the primary care *or mental health care* residency training program;

(2) engage in the full-time practice of medicine and surgery in any

county in Kansas other than Douglas, Johnson, Sedgwick, Shawnee or Wyandotte for three years under a practice commitment agreement;

(3) commence such full-time practice of medicine and surgery within 90 days after completing the primary care *or mental health care* residency training program; and

(4) upon failure to satisfy the obligation to engage in the full-time practice of medicine and surgery in accordance with the provisions of the residency bridging loan agreement and this section, the person receiving the loan under this section shall repay to the university of Kansas school of medicine, within 90 days of such failure, the amount equal to the amount of money received by such person from the university of Kansas school of medicine, less credits earned, under such agreement plus interest at the annual rate of 15% from the date such money was received.

(e) An obligation to engage in the practice of medicine and surgery in accordance with the provisions of a residency bridging loan agreement and this section shall be postponed during: (1) Any period of temporary medical disability during which the person obligated is unable to practice medicine and surgery because of such medical disability;; or (2) any other period of postponement agreed to or determined in accordance with criteria agreed to in the practice commitment agreement.

(f) An obligation to engage in the practice of medicine and surgery in accordance with the provisions of a residency bridging loan agreement and this section shall be satisfied: (1) If the obligation to engage in the practice of medicine and surgery in accordance with such agreement has been completed;; (2) if the person obligated dies;; or (3) if, because of permanent physical disability, the person obligated is unable to practice medicine and surgery.

(g) The university of Kansas school of medicine may adopt additional provisions, requirements or conditions for participation in the Kansas medical residency bridging program as are practicable and appropriate to accomplish the purposes of the program or as may be required for the implementation or administration of the program and, in any case, as are not inconsistent with the provisions of this section or the provisions of appropriation acts.

(h) As used in this section, “practice commitment agreement” means an agreement to commence the full-time practice of medicine and surgery in a city located in any county in Kansas other than Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county, ~~which that~~:

(1) Was entered into: (A) By a person in a primary care *or mental health care* residency training program in general pediatrics, general internal medicine, family medicine ~~or~~, family practice, *general psychiatry or child psychiatry*, that is operated by or affiliated with the university of Kansas school of medicine or other such primary care *or mental health care* residency training program ~~which that~~ is operated in Kansas and approved by the state board of healing arts;; or (B) by a person under

subsection (i) with the city where such practice is to commence or another contracting entity other than the university of Kansas school of medicine that is representative of the interests of such city; and

(2) provides benefits to such person that have an aggregate monetary value equal to or greater than the aggregate amount of payments to such person from the university of Kansas school of medicine under a residency bridging loan agreement under this section.

(i) A person who graduated from the university of Kansas school of medicine prior to July 1, 1992, who has completed the first year of a primary care residency training program in family practice which is operated outside the state of Kansas and who has entered into a practice commitment agreement with the north central Kansas health care foundation is eligible to enter into a residency bridging loan agreement under this section.

*(j) Notwithstanding any other provision of law to the contrary, no moneys appropriated for the Kansas medical residency bridging program at the university of Kansas school of medicine, except moneys appropriated to the rural health bridging psychiatry fund, shall be expended for residency bridging loan agreements for medical residents training in general psychiatry or child psychiatry.*

*(k) Subject to appropriations, the university of Kansas school of medicine shall enter into residency bridging loan agreements with three medical residents training in general psychiatry or child psychiatry.*

*(l) There is hereby established in the state treasury the rural health bridging psychiatry fund. All moneys credited to the rural health bridging psychiatry fund shall be used only for purposes related to residency bridging loan agreements for medical residents training in general psychiatry or child psychiatry pursuant to K.S.A. 76-387, and amendments thereto. All expenditures from the rural health bridging psychiatry 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 chancellor of the university of Kansas or the chancellor's designee.*

*(m) Notwithstanding any other provision of law to the contrary, no moneys shall be transferred from the comprehensive grant program account of the state board of regents to the rural health bridging psychiatry fund or expended for any purposes related to the Kansas medical residency bridging program.*

Sec. 7. K.S.A. 2016 Supp. 75-3373 is hereby amended to read as follows: 75-3373. (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,~~ no 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, the Osawatimie state hospital or any facility that provides mental health services and that is~~

*operated by a state agency without prior specific authorization by an act of the legislature or an appropriation act of the legislature. The restriction imposed by this subsection applies to any action to outsource or privatize all or any part of any operation or facility of the Larned state hospital, the Osawatomie state hospital or any facility that provides mental health services and that is operated by a state agency, including, but not limited to, any action to transfer all or any part of the rated bed capacity at the Larned state hospital or the Osawatomie state hospital, in effect on the effective date of this act, to another facility.*

(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. 8. K.S.A. 76-12a07 is hereby amended to read as follows: 76-12a07. The secretary may adopt rules and regulations for the government, regulation and operation of institutions. The secretary may adopt rules and regulations relating to the assignment of all persons admitted to institutions, *except that the secretary shall take no action to transfer or assign any person admitted to an institution for the purpose of circumventing the restrictions imposed by K.S.A. 2016 Supp. 75-3373, and amendments thereto.*

Sec. 9. K.S.A. 76-387 and 76-12a07 and K.S.A. 2016 Supp. 75-3373, 76-381, 76-382, 76-383, 76-384 and 76-385 are hereby repealed.

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

Approved March 29, 2017.

Published in the *Kansas Register* April 6, 2017.

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## CHAPTER 13

## HOUSE BILL No. 2164

AN ACT concerning community college boards of trustees; providing an additional member to the Cowley county community college board of trustees; amending K.S.A. 71-1403 and repealing the existing section.

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

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

(1) “Cowley county community college district” means the taxing district of Cowley county community college.

(2) “Sumner county election officer” means the county clerk of Sumner county.

(3) “Additional member” means the additional trustee position on the board of trustees of Cowley county community college elected by the qualified electors residing in Sumner county.

(b) Subject to the provisions of subsection (e):

(1) The board of trustees of Cowley county community college shall be composed of board members from Cowley county community college elected pursuant to K.S.A. 71-1401 et seq., and amendments thereto, and an additional member elected by the qualified electors of Sumner county. The board of trustees of Cowley county community college shall adopt and implement an additional member plan as provided in this section. The board’s additional member plan shall include a determination as to whether the board has adopted a six or seven member plan for member elections in the Cowley county community college district. The provisions of K.S.A. 71-1401 et seq., and amendments thereto, shall apply to the member elections in the Cowley county community college district.

(2) The general election for the additional member shall be conducted as an at large election in Sumner county and held on the Tuesday following the first Monday in November of each odd-numbered year.

(3) Any primary election for the additional member shall be conducted as an at large election in Sumner county and held on the first Tuesday of August of each odd-numbered year in accordance with K.S.A. 25-205, and amendments thereto.

(4) Notice of the time and place of holding each primary and general election shall be published by the Sumner county election officer in accordance with K.S.A. 25-105 and 25-209, and amendments thereto.

(5) If there are more than three candidates for the additional member, the Sumner county election officer shall call and hold a primary election. The names of the two candidates who receive the greatest number of votes at the primary election shall appear on the ballots in the general election. If there are three or fewer candidates, there shall not be a primary election and the names of the candidates shall be placed on the ballots in the general election.

(6) If an additional member is to be elected to fill an unexpired term,

the Sumner county election officer shall call and hold a primary election if there are more than three candidates for such unexpired term. The names of two candidates for such unexpired term receiving the greatest number of votes shall appear on the ballots in the general election. If there are three or fewer candidates for the unexpired term of the additional member, there shall not be a primary election and the names of the candidates shall be placed on the ballots in the general election.

(7) In general elections for the additional member, one blank line for the names of write-in candidates shall be printed on the ballots at the end of the list of candidates. The purpose of such blank line shall be to permit the voter to insert the name of any person not printed on the ballot for whom such voter desires to vote for such position. No lines for write-in candidates shall appear on primary election ballots for the additional member.

(8) All qualified electors who reside in Sumner county may vote in both the primary and general elections for the additional member.

(9) The provisions of K.S.A. 71-1419, and amendments thereto, shall apply to elections for the additional member.

(c) (1) A person may become a candidate for election to the additional member trustee of the Cowley county community college board of trustees by either one of the following methods:

(A) Any person who is an elector of Sumner county may petition to be a candidate for the additional member trustee by filing with the Sumner county election officer a petition for such person's candidacy signed by not less than 50 electors residing in Sumner county; or

(B) any person who is an elector of Sumner county may become a candidate for the additional member trustee by filing with the Sumner county election officer a declaration of intent to be such a candidate and payment of a filing fee in the amount of \$20.

(2) Every petition or declaration of intent filed under this subsection shall be filed on or before 12 p.m. on June 1 of each odd-numbered year as provided in K.S.A. 2016 Supp. 25-21a03, and amendments thereto, and K.S.A. 25-205, and amendments thereto.

(d) The first additional member shall be elected for a two-year term commencing on the second Monday in January, 2018, following the election. All subsequent additional members shall be elected for a four-year term commencing on the second Monday in January following the election.

(e) The Cowley county community college board of trustees shall be composed of those members elected pursuant to K.S.A. 71-1401 et seq., and amendments thereto, and the additional member, for so long as Sumner county provides financial support for the benefit of Cowley county community college in the form of a countywide retailers' sales tax or an ad valorem property tax levied on all taxable tangible property located in

Sumner county. If Sumner county terminates such financial support or if the financial support lapses:

(1) The Cowley county community college board of trustees shall discontinue implementation of the additional member plan at the expiration of the additional member's term or upon the vacancy of the additional member position;

(2) the Cowley county community college board of trustees shall send notice of discontinued financial support to the Sumner county election officer;

(3) upon receipt of such notice, the Sumner county election officer shall not conduct or authorize any general or primary election to fill the expiring term of the additional member or to fill any vacancy of the additional member position; and

(4) the additional member may continue to serve as the additional member on the Cowley county board of trustees until the expiration of such member's term of office or until a vacancy occurs in the additional member position.

(f) Elections for the board of trustee members from the Cowley county community college district shall continue to be conducted pursuant to K.S.A. 71-1401 et seq., and amendments thereto.

Sec. 2. K.S.A. 71-1403 is hereby amended to read as follows: 71-1403. (a) The governing body of a community college is and shall be a board of trustees.

(b) (1) Subject to ~~provision~~ paragraphs (2) and (3), the board of trustees of a community college shall be composed of six members.

(2) If a community college adopts and implements a seven member board of trustees plan, the board of trustees of the community college shall be composed of seven members.

(3) *If a community college adopts and implements an additional member board of trustees plan pursuant to section 1, and amendments thereto, the board of trustees of the community college may be composed of seven or eight members.*

(c) The members of a board of trustees may be elected:

(1) By any one of the four methods provided for in this act which are: ~~(A)~~ (A) Election-at-large method, ~~(2)~~; (B) six-district election method, ~~(3)~~; (C) three-district method, ~~(4)~~; or (D) two-district method; or

(2) *in accordance with paragraph (1) and the provisions of section 1, and amendments thereto.*

(d) No member of the board of trustees of a community college shall be an employee of the community college.

Sec. 3. K.S.A. 71-1403 is hereby repealed.

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

Approved April 5, 2017.

Published in the *Kansas Register* April 13, 2017.

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## CHAPTER 14

### HOUSE BILL No. 2066

AN ACT concerning use of state highway right-of-way; relating to reimbursement for certain relocation costs; public wholesale water supply districts; amending K.S.A. 68-415 and repealing the existing section.

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

Section 1. K.S.A. 68-415 is hereby amended to read as follows: 68-415. (a) Whenever any person, firm or any corporation created for the purpose of constructing and maintaining magnetic telegraph or telephone lines or other telecommunication facilities or for the purpose of constructing and maintaining lines for the transmission of electric current or for the purpose of transporting oil or gas or water by pipelines, or municipal corporations, shall construct or maintain poles, piers, abutments, pipelines or other fixtures along, upon or across any state highway, such poles, wires, piers, abutments, pipelines and other fixtures shall be located upon that part of the right-of-way of the state highway designated by the secretary of transportation. The secretary of transportation may require the removal of such poles, piers, abutments, wires and pipelines and other fixtures upon state highways from any location on the state highways to such part of the right-of-way of the state highways as the secretary of transportation shall designate, and if such person, firm or corporation, upon receiving notice of the requirement of the secretary of transportation that such poles, piers, abutments, wires, pipelines or other fixtures be moved, fails to comply with any such requirement, the secretary of transportation may remove such poles, piers, abutments, wires, pipelines and other fixtures to such place on the right-of-way of the state highways as may be designated by the secretary of transportation, and the cost of such removal shall be paid to the secretary of transportation by such person, firm or corporation upon a statement of cost being furnished to such person, firm or corporation.

If such person, firm or corporation refuses to pay the charges, the secretary of transportation shall notify the attorney general, who shall bring suit against such person, firm or corporation in the name of the state to recover the amount. Any amounts received from such persons, firms or corporations shall be deposited in the state treasury and credited to the fund from which the cost of such removal was paid.



(b) In addition to the powers provided in subsection (a), the secretary may advance moneys to a public utility or entity when the utilities, structures or facilities of such public utility or entity are being moved, modified or relocated and in the secretary's opinion the expeditious movement, modification or relocation of such utilities, structures or facilities, from current or proposed highway right-of-way, is necessitated by a current or proposed highway project. The secretary shall not advance moneys to a public utility or entity, unless such public utility or entity can demonstrate a financial need for the advancement of such moneys.

The secretary shall not advance moneys in excess of \$20,000, per project, to any one public utility or entity. Such public utility or entity advanced money by the secretary shall pay interest upon such money at the rate of interest equal to the average yield before taxes received on 91-day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the date of the advancement of such money. The term for the repayment of such money by such public utility or entity shall not exceed 60 months.

Nothing in this subsection shall give any public utility or entity any standing on rights of compensation not currently available under law, and all such payments are deemed a matter of legislative policy to rest solely within the discretion of the secretary of transportation for the purpose of expediting the construction, reconstruction or maintenance of the state highway system.

The secretary of transportation shall adopt rules and regulations establishing the procedure and criteria for the advancement of moneys under the provisions of this subsection.

(c) Notwithstanding the provisions of subsection (a), any rural water district created under the provisions of K.S.A. 82a-612 et seq., and amendments thereto, *or any public wholesale water supply district created pursuant to K.S.A. 19-3545 et seq., and amendments thereto*, which, after excluding such water lines that cross a highway, has 90% or more of its remaining water lines on private right-of-way and is required to relocate such district's water lines in accordance with subsection (a): (1) Shall be reimbursed for such district's costs for relocating such water lines; or (2) if the secretary of transportation relocates the district's water lines, such district shall not be required to reimburse the secretary of transportation the costs for relocating such water lines. The provisions of this subsection shall apply to all state highway funded projects, including any highway projects currently in progress.

Sec. 2. K.S.A. 68-415 is hereby repealed.

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

## CHAPTER 15

## SENATE BILL No. 26

AN ACT concerning wildlife, parks and tourism; relating to vessels; registration fees; amending K.S.A. 2016 Supp. 32-1172 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 32-1172 is hereby amended to read as follows: 32-1172. The secretary is authorized to adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations fixing the amount of fees for the following items, subject to the following limitations and subject to the requirement that no such rules and regulations shall be adopted as temporary rules and regulations:

Dealer certificate of number: maximum \$50

Additional dealer certificates: maximum \$10

Dealer license: maximum \$50

Duplicate registrations, certificates or permits: maximum \$10

Vessel registrations: maximum ~~\$30~~\$60

Water event permits: maximum \$50

Special departmental services, materials or supplies: no maximum

Sec. 2. K.S.A. 2016 Supp. 32-1172 is hereby repealed.

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

Approved April 5, 2017.

## CHAPTER 16

## SENATE BILL No. 110

AN ACT concerning the state board of regents; relating to supplemental health insurance coverage; authorizing the purchase thereof for certain state employees; amending K.S.A. 2016 Supp. 75-4101 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 75-4101 is hereby amended to read as follows: 75-4101. (a) There is hereby created a committee on surety bonds and insurance, which shall consist of the state treasurer, the attorney general and the commissioner of insurance or their respective designees. The commissioner of insurance shall be the chairperson of the committee and the director of purchases or the director's designee shall be ex officio secretary. The committee shall meet on call of the chairperson and at such other times as the committee shall determine but at least once each month on the second Monday in each month. Meetings shall be held in the office of the commissioner of insurance. The members of the com-

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

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

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

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

ance and without complying with K.S.A. 75-3738 through 75-3744, and amendments thereto.

(e) (1) The state board of regents may enter into one or more group insurance contracts to provide health and accident insurance coverage or health care services of a health maintenance organization for all students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, and such students' dependents, except that such insurance shall not provide coverage for elective procedures that are not medically necessary as determined by a treating physician. The participation by a student in such coverage shall be voluntary. In the case of students who are employed by a state educational institution in a student position, the level of employer contributions toward such coverage shall be determined by the board of regents.

(2) *The state board of regents is hereby authorized to independently provide, through self-insurance or the purchase of insurance contracts, health care benefits for employees of a state educational institution, as such term is defined in K.S.A. 76-711, and amendments thereto, when the state health care benefits program is insufficient to satisfy the requirements of 22 C.F.R. § 62.14, as in effect upon the effective date of this section. Such healthcare benefits shall be limited to only those for whom the state health care benefits program does not meet federal requirements.*

(3) The state board of regents may adopt rules and regulations necessary to administer and implement the provisions of this section.

Sec. 2. K.S.A. 2016 Supp. 75-4101 is hereby repealed.

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

Approved April 5, 2017.

Published in the *Kansas Register* April 13, 2017.

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## CHAPTER 17

### SENATE BILL No. 154

AN ACT concerning home health agencies; relating to licensure; services provided; amending K.S.A. 65-5102, 65-5103, 65-5107 and 65-5115 and K.S.A. 2016 Supp. 39-1908, 65-5101, 65-5104, 65-5112, 65-5117 and 65-6805 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 39-1908 is hereby amended to read as follows: 39-1908. (a) The following parts of the health occupations credentialing program of the department of health and environment under the Kansas act on credentialing, K.S.A. 65-5001 through 65-5011, and amendments thereto, shall be transferred to *the Kansas department for*

*aging and disability services* and shall be administered by the secretary for aging and disability services:

(1) Licensure of adult care home administrators, as defined by ~~subsection (c) of~~ K.S.A. 65-3501, and amendments thereto;

(2) licensure of dietitians, as defined by ~~subsection (f) of~~ K.S.A. 65-5902, and amendments thereto;

(3) certification of residential care facility operators, as defined by ~~subsection (a)(21) of~~ K.S.A. 39-923, and amendments thereto;

(4) certification of activity directors, as defined by ~~subsection (a) of~~ K.A.R. 26-39-100(a) on the effective date of K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto;

(5) certification of social service designees, as defined by ~~subsection (ppp) of~~ K.A.R. 26-39-100(ppp) on the effective date of K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto;

(6) certification of nurse aides, as defined by ~~subsection (pp) of~~ K.A.R. 26-39-100(pp) on the effective date of K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto;

(7) certification of medication aides, as defined by ~~subsection (mm) of~~ K.A.R. 26-39-100(mm) on the effective date of K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto;

(8) certification of home health aides, as defined by ~~subsection (d) of~~ K.S.A. 65-5101, and amendments thereto; and

(9) maintenance of the Kansas nurse aide registry under ~~subsection (c) of~~ K.S.A. 39-936(c), and amendments thereto, and K.S.A. 39-1411, and amendments thereto.

(b) The criminal history record check program, as authorized by individual credentialing statutes or rules and regulations, K.S.A. 39-969, and amendments thereto, K.S.A. 39-970, and amendments thereto, and ~~subsection (b) of~~ K.S.A. 22-4707(b), and amendments thereto, is hereby transferred from the department of health and environment to the Kansas department for aging and disability services and shall be a part thereof.

(c) The licensure of adult care home administrators, the licensure of dietitians, the certification of residential care facility operators, the certification of activity directors, the certification of social service designees, the certification of nurse aides, the certification of medication aides, the certification of home health aides, the board of adult care home administrators, the maintenance of the Kansas nurse aide registry and the criminal history record check program shall be administered by the secretary for aging and disability services. Nothing in K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto, shall change or diminish the authority of the board of adult care home administrators established by K.S.A. 65-3506, and amendments thereto.

(d) Except as otherwise provided by K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto, all powers, duties and functions of the secretary of health and environment pertaining to the licen-

sure of adult care home administrators, the licensure of dieticians, the certification of residential care facility operators, the certification of activity directors, the certification of social service designees, the certification of nurse aides, the certification of medication aides, the certification of home health aides, the board of adult care home administrators, the Kansas nurse aide registry and the criminal record check program transferred by K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto, are hereby transferred to and imposed upon the secretary for aging and disability services.

(e) The Kansas department for aging and disability services shall be the successor in every way to the powers, duties and functions of the department of health and environment pertaining to those portions of the health occupations credentialing program transferred by K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the Kansas department for aging and disability services shall be deemed to have the same force and effect as if performed by the department of health and environment in which such powers, duties and functions were vested prior to the effective date of K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto.

Sec. 2. K.S.A. 2016 Supp. 65-5101 is hereby amended to read as follows: 65-5101. As used in this act, unless the context otherwise requires:

(a) “*Attendant care services*” means basic and ancillary services provided under home and community based services waiver programs.

(b) “council” means the home health services advisory council created by this act;

~~(b)~~(c) “home health agency” means a public or private agency or organization or a subdivision or subunit of such agency or organization that provides for a fee one or more home health services, *supportive care services or attendant care services provided under home and community based services waiver programs* at the residence of a patient but does not include local health departments which are not federally certified home health agencies, durable medical equipment companies which provide home health services by use of specialized equipment, independent living agencies, the Kansas department for aging and disability services and the department of health and environment;

~~(c)~~(d) “home health services” means any of the following services provided at the *current* residence of the patient on a full-time, part-time or intermittent basis: Nursing, physical therapy, speech therapy, nutritional or dietetic consulting, occupational therapy, respiratory therapy, home health aid, ~~attendant care services~~ *aide* or medical social service;

~~(d)~~(e) “home health aide” means an employee of a home health agency who is ~~not licensed or professionally registered to provide home~~

~~health services but~~ *a certified nurse aide, is in good standing on the public nurse aide registry maintained by the Kansas department for aging and disability services and has completed a 20-hour home health aide course approved by the Kansas department for aging and disability services* who assists, under ~~registered nurse~~ supervision, in the provision of home health services and who provides ~~related~~ *assigned* health care to patients but shall not include employees of a home health agency providing only *supportive care services or attendant care services*;

~~(e)~~(f) “independent living agency” means a public or private agency or organization or a subunit of such agency or organization whose primary function is to provide at least four independent living services, including independent living skills training, advocacy, peer counseling and information and referral as defined by the rehabilitation act of 1973, title VII, part B, and such agency shall be recognized by the secretary for aging and disability services as an independent living agency. Such agencies include independent living centers and programs which meet the following quality assurances:

(1) Accreditation by a nationally recognized accrediting body such as the commission on accreditation of rehabilitation facilities; or

(2) receipt of grants from the state or the federal government and currently meets standards for independent living under the rehabilitation act of 1973, title VII, part B, sections (a) through (k), or comparable standards established by the state; or

(3) compliance with requirements established by the federal government under rehabilitation services administration standards for centers for independent living;

~~(f)~~(g) “part-time or intermittent basis” means the providing of home health services in an interrupted interval sequence on the average of not to exceed three hours in any twenty-four-hour period;

~~(g)~~(h) “patient’s residence” means the actual place of residence of the person receiving home health services, including institutional residences as well as individual dwelling units;

~~(h)~~(i) “secretary” means secretary of health and environment;

~~(i)~~(j) “subunit” or “subdivision” means any organizational unit of a larger organization which can be clearly defined as a separate entity within the larger structure, which can meet all of the requirements of this act independent of the larger organization, which can be held accountable for the care of patients it is serving and which provides to all patients care and services meeting the standards and requirements of this act; ~~and~~

~~(j)~~ “attendant care services” shall have the meaning ascribed to such term under K.S.A. 65-6201, and amendments thereto;

(k) “supportive care services” means services that do not require supervision by a healthcare professional, such as a physician assistant or registered nurse, to provide assistance with activities of daily living that the consumer could perform if such consumer were physically capable,

including, but not limited to, bathing, dressing, eating, medication reminders, transferring, walking, mobility, toileting and continence care, provided in the consumer's temporary or permanent place of residence so that the consumer can remain safely and comfortably in the consumer's temporary or permanent place of residence. "Supportive care services" does not include any home health services; and

(l) "supportive care worker" means an employee of a home health agency who provides supportive care services.

Sec. 3. K.S.A. 65-5102 is hereby amended to read as follows: 65-5102. ~~No home health~~ Any agency, including medicare and medicaid providers, ~~shall provide that provides~~ one or more of the home health services, ~~supportive care services or attendant care services~~ specified in ~~subsection (e) of K.S.A. 65-5101, and amendments thereto, other than attendant care services, or shall hold or that holds~~ itself out as providing one or more of such home health services, ~~other than attendant care services, or as a home health agency unless it is~~ shall be licensed in accordance with the provisions of this act. *Any agency found to be providing services meeting the definition of a home health agency without a license shall be notified of the agency's need to become licensed. The agency shall be offered a 60-day temporary license to continue operating during the pendency of an application for licensure. If the agency fails to obtain licensure within 30 calendar days, the secretary for aging and disability services shall assess a fine on the agency in accordance with this act. The secretary shall not grant a temporary license to any unlicensed agency that is providing services in a way that presents imminent harm to the public.*

Sec. 4. K.S.A. 65-5103 is hereby amended to read as follows: 65-5103. (a) Persons desiring to receive a license to operate a home health agency shall file a written application with the secretary on a form prescribed by the secretary.

(b) The application shall be accompanied by a license fee fixed by rules and regulations of the secretary ~~which that establish a sliding scale for such~~ fee based upon the actual or estimated number of home health visits ~~to be performed by unduplicated patients admitted to a home health agency during a calendar~~ the prior licensure year. The initial license fee may be greater than subsequent annual fees as established by the secretary by rules and regulations.

Sec. 5. K.S.A. 2016 Supp. 65-5104 is hereby amended to read as follows: 65-5104. (a) The secretary shall review the applications and shall issue a license to applicants who have complied with the requirements of this act and have received approval of the secretary after a survey inspection.

(b) A license shall remain in effect unless suspended or revoked, when the following conditions have been met:

(1) An annual report is filed upon such uniform dates and containing



such information in such form as the secretary prescribes and is accompanied by the payment of an annual fee;

(2) the home health agency is in compliance with the requirements established under the provisions of this act as evidenced by an on-site survey conducted at least once every 36 months subsequent to any previous survey inspection; and

(3) the annual report is accompanied by a statement of any changes in the information previously filed with the secretary under K.S.A. 65-5103, and amendments thereto.

(c) If the annual report is not filed and the annual fee is not paid *within 30 calendar days of the renewal expiration date*, such license is automatically canceled. The annual fee shall be fixed by rules and regulations of the secretary. The license fee for renewal of a license in effect immediately prior to the effective date of this act shall constitute the annual fee until an annual fee is established by the secretary under this subsection.

(d) Each license shall be issued only for the home health agency listed in the application and annual report. Licenses shall be posted in a conspicuous place in the main offices of the licensed home health agency.

(e) A license shall not be transferable or assignable. When a home health agency is sold or ownership or management is transferred, or the corporate legal organization status is substantially changed, the license of the agency shall be voided and a new license obtained. Application for a new license shall be made to the secretary in writing, ~~at least 90 days~~ prior to the effective date of the sale, transfer or change in corporate status. The application for a new license shall be on the same form, containing the same information required for an original license, and shall be accompanied by the license fee. The secretary may issue a temporary operating permit for the continuation of the operation of the home health agency for a period of not more than 90 days pending the survey inspection and the final disposition of the application. The secretary shall require all licensed home health agencies to submit statistical reports. The content, format and frequency of such reports shall be determined by the secretary.

(f) Notwithstanding the foregoing provisions of this section, the secretary may enter into reciprocal agreements with states bordering Kansas whereby licenses may be granted, without an on-site survey and upon the filing of the prescribed application and payment of the prescribed fee, to home health agencies duly licensed in a bordering state, so long as the secretary finds that the requirements for licensure of the state from which the applicant applies are substantially the same as those in Kansas and the applicant is recommended favorably in writing by the licensing agency of the bordering state in which the applicant is licensed. If a bordering state does not license home health agencies or does not have licensing requirements substantially the same as those in Kansas, home health

agencies located in that state which do business in Kansas shall meet all requirements of this act and shall operate in Kansas from offices located in Kansas.

Sec. 6. K.S.A. 65-5107 is hereby amended to read as follows: 65-5107. Any person may make a complaint against a home health agency licensed under the provisions of this act by ~~filing making a complaint in writing with the secretary~~ *through the complaint hotline maintained by the Kansas department for aging and disability services* stating the details and facts supporting the complaint. If the secretary determines after an investigation that the charges are sufficient to warrant a hearing to determine whether the license of the home health agency should be suspended or revoked, the secretary shall fix a time and place for a hearing and require the home health agency to appear and defend against the complaint in accordance with the provisions of the Kansas administrative procedure act. A copy of the complaint shall be given to the home health agency at the time it is notified of the hearing. The notice of the hearing shall be given at least 20 days prior to the date of the hearing.

Sec. 7. K.S.A. 2016 Supp. 65-5112 is hereby amended to read as follows: 65-5112. The provisions of this act shall not apply to:

(a) Individuals who personally provide one or more home health *or attendant care* services if such persons are not under the direct control and doing work for ~~and or employed by a home health agency~~ *any business entity, except as provided in subsection (f)*;

(b) ~~individuals performing attendant care services directed by or on behalf of an individual in need of in-home care as the terms "attendant care services" and "individual in need of in-home care" are defined under K.S.A. 65-6201, and amendments thereto, if the individuals performing such services are not under the direct control and doing work for and employed by a home health agency, or~~

~~(e)~~—any person or organization conducting a home health agency by and for the adherents of any recognized church or religious denomination or sect for the purpose of providing services for the care or treatment of the sick or infirm who depend upon prayer or spiritual means for healing in the practice of the religion of such church, religious denomination or sect;

~~(d)~~(c) a hospice which is certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 et seq., and amendments thereto, and which provides services only to hospice patients; ~~or~~

~~(e)~~(d) a program for all-inclusive care for the elderly (PACE) which is certified to participate in the medicare or medicaid program under 42 code of federal regulations, chapter IV, subchapter E, section 460.2 et seq., and amendments thereto, and which provides services only to PACE participants;

(e) *an outpatient physical therapy agency that is certified to participate in the medicare program and that provides services only to outpatient physical therapy patients; or*

(f) *individuals who personally provide one or more home health or attendant care services if such individuals are employed in accordance with K.S.A. 39-7,100(b)(2) and 65-1124(l), and amendments thereto.*

Sec. 8. K.S.A. 65-5115 is hereby amended to read as follows: 65-5115.

(a) The secretary may require, as a condition to continued employment by a home health agency that home health aides, ~~after~~ *within* 90 days of employment, successfully complete an approved course of instruction and take and satisfactorily pass an examination prescribed by the secretary. ~~The secretary may not require as a condition to employment or continued employment by a home health agency that persons providing only attendant care services as an employee of a home health agency complete any course of instruction or pass any examination.~~

(b) A course of instruction for home health aides may be prepared and administered by any home health agency or by any other qualified person. A course of instruction prepared and administered by a home health agency may be conducted on the premises of the home health agency which prepared and which will administer the course of instruction. The secretary shall not require home health aides to enroll in any particular approved course of instruction, but the secretary shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction.

(c) ~~Prior to July 1, 1991, the secretary may require that home health aides complete the course of instruction and pass the examination established pursuant to subsection (c)(3) of K.S.A. 39-936 and amendments thereto before enrolling in an approved course of instruction authorized by this section. On and after July 1, 1991, The secretary may not require that home health aides complete the course of instruction and pass the examination established pursuant to subsection (c)(3) of K.S.A. 39-936(c)(3), and amendments thereto, before enrolling in an approved course of instruction authorized by this section. Home health aides may enroll in any approved course of instruction.~~

(d) The examination required under this section shall be prescribed by the secretary and shall be reasonably related to the duties performed by home health aides. The same examination shall be given by the secretary to all home health aides.

(e) The secretary shall fix, charge and collect an examination fee to cover all or any part of the cost of the examination required under subsection (a). The examination fee shall be fixed by rules and regulations of the secretary. The examination fee shall be deposited in the state treasury and credited to the state general fund.

Sec. 9. K.S.A. 2016 Supp. 65-5117 is hereby amended to read as

follows: 65-5117. (a) (1) No person shall knowingly operate a home health agency if, for the home health agency, there works any person who has been convicted of or has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2016 Supp. 21-5403(a), and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2016 Supp. 21-5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2016 Supp. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 2016 Supp. 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto, commercial sexual exploitation of a child, pursuant to K.S.A. 2016 Supp. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this ~~subsection (a)(1)~~ *paragraph*, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2016 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this ~~subsection (a)(1)~~ *paragraph*, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2016 Supp. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this ~~subsection (a)(1)~~ *paragraph*, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2016 Supp. 21-5303, and

amendments thereto, or similar statutes of other states or the federal government. The provisions of subsection (a)(2)(C) shall not apply to any person who is employed by a home health agency on July 1, 2010, and while continuously employed by the same home health agency.

(2) A person operating a home health agency may employ an applicant who has been convicted of any of the following if five or more years have elapsed since the applicant satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if five or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer: A felony conviction for a crime which is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto, except those crimes listed in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6419 through 21-6421, and amendments thereto, except those crimes listed in subsection (a)(1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2016 Supp. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2016 Supp. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this ~~subsection (a)(2)~~ *paragraph* pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2016 Supp. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in ~~subsection (a)(2)~~ *this paragraph* pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2016 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in ~~subsection (a)(2)~~ *this paragraph* pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2016 Supp. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

(b) No person shall operate a home health agency if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto. The provisions of this subsection shall not apply to a minor found to be in need of a guardian or conservator for reasons other than impairment.

(c) The secretary of health and environment shall have access to any criminal history record information in the possession of the Kansas bureau of investigation regarding any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile

offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, concerning persons working for a home health agency. The secretary shall have access to these records for the purpose of determining whether or not the home health agency meets the requirements of this section. The Kansas bureau of investigation may charge to the department of health and environment a reasonable fee for providing criminal history record information under this subsection.

(d) For the purpose of complying with this section, the operator of a home health agency shall request from the ~~Kansas department of health and environment~~ *for aging and disability services* information regarding any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, and which relates to a person who works for the home health agency or is being considered for employment by the home health agency, for the purpose of determining whether such person is subject to the provisions of this section. For the purpose of complying with this section, information relating to convictions and adjudications by the federal government or to convictions and adjudications in states other than Kansas shall not be required until such time as the ~~secretary of health and environment~~ *for aging and disability services* determines the search for such information could reasonably be performed and the information obtained within a two-week period. For the purpose of complying with this section, the operator of a home health agency shall receive from any employment agency which provides employees to work for the home health agency written certification that such employees are not prohibited from working for the home health agency under this section. For the purpose of complying with this section, a person who operates a home health agency may hire an applicant for employment on a conditional basis pending the results from the ~~Kansas department of health and environment~~ *for aging and disability services* of a request for information under this subsection. No home health agency, the operator or employees of a home health agency or an employment agency, or the operator or employees of an employment agency, which provides employees to work for the home health agency shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such home health agency's compliance with the provisions of this section if such home health agency or employment agency acts in good faith to comply with this section.

(e) The ~~secretary of health and environment~~ *for aging and disability*

*services* shall charge each person requesting information under this section a fee equal to cost, not to exceed \$10, for each name about which an information request has been submitted under this section.

(f) (1) ~~The secretary of health and environment~~ *for aging and disability services* shall provide each operator requesting information under this section with the criminal history record information concerning any criminal history information and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, in writing and within three working days of receipt of such information from the Kansas bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a).

(2) When an offense enumerated in subsection (a) exists in the criminal history record information, and when further confirmation regarding criminal history record information is required from the appropriate court of jurisdiction or Kansas department of corrections, the secretary *for aging and disability services* shall notify each operator that requests information under this section in writing and within three working days of receipt from the Kansas bureau of investigation that further confirmation is required. The secretary *for aging and disability services* shall provide to the operator requesting information under this section information in writing and within three working days of receipt of such information from the appropriate court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.

(3) Whenever the criminal history record information reveals that the subject of the request has no criminal history on record, the secretary *for aging and disability services* shall provide notice to each operator requesting information under this section, in writing and within three working days after receipt of such information from the Kansas bureau of investigation.

(4) ~~The secretary of health and environment~~ *for aging and disability services* shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 2016 Supp. 38-2326, and amendments thereto, except for adjudications of a juvenile offender for an offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2016 Supp. 21-5801, and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three working days of receipt of such information from the Kansas bureau of investigation, whether juvenile criminal history record information received pursuant to this section reveals that the operator would or would not be prohibited by this section from employing the subject of the request for information and whether such information contains adjudications of a juvenile offender for an offense described in

K.S.A. 21-3701, prior to its repeal, or K.S.A. 2016 Supp. 21-5801, and amendments thereto.

(5) An operator who receives criminal history record information under this subsection (f) shall keep such information confidential, except that the operator may disclose such information to the person who is the subject of the request for information. A violation of this paragraph ~~(5)~~ shall be an unclassified misdemeanor punishable by a fine of \$100.

(g) No person who works for a home health agency and who is currently licensed or registered by an agency of this state to provide professional services in this state and who provides such services as part of the work which such person performs for the home health agency shall be subject to the provisions of this section.

(h) A person who volunteers to assist a home health agency shall not be subject to the provisions of this section because of such volunteer activity.

(i) An operator may request from the department of health and environment criminal history information on persons employed under subsections (g) and (h).

(j) No person who has been employed by the same home health agency since July 1, 1992, shall be subject to the requirements of this section while employed by such home health agency.

(k) The operator of a home health agency shall not be required under this section to conduct a background check on an applicant for employment with the home health agency 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 home health agency. The operator of a home health agency where the applicant was the subject of such background check may release a copy of such background check to the operator of a home health agency where the applicant is currently applying.

(l) For purposes of this section, the Kansas bureau of investigation shall only report felony convictions, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments thereto, to the secretary ~~of health and environment~~ *for aging and disability services* when a background check is requested.

(m) This section shall be part of and supplemental to the provisions of article 51 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 10. K.S.A. 2016 Supp. 65-6805 is hereby amended to read as follows: 65-6805. Each medical care facility as defined by ~~subsection (h)~~



of K.S.A. 65-425, and amendments thereto; health care provider as defined in K.S.A. 40-3401, and amendments thereto; providers of health care as defined in ~~subsection (f) of~~ K.S.A. 65-5001, and amendments thereto; health care personnel as defined in ~~subsection (e) of~~ K.S.A. 65-5001, and amendments thereto; home health agency as defined by ~~subsection (b) of~~ K.S.A. 65-5101, and amendments thereto; psychiatric hospitals licensed under K.S.A. 75-3307b, and amendments thereto; state institutions for people with intellectual disability; community facilities for people with intellectual disability as defined under K.S.A. 65-4412, and amendments thereto; community mental health center as defined under K.S.A. 65-4432, and amendments thereto; adult care homes as defined by K.S.A. 39-923, and amendments thereto; laboratories described in K.S.A. 65-1,107, and amendments thereto; pharmacies; board of nursing; Kansas dental board; board of examiners in optometry; state board of pharmacy; state board of healing arts and third-party payors, including, but not limited to, licensed insurers, medical and hospital service corporations, health maintenance organizations, fiscal intermediaries for government-funded programs and self-funded employee health plans, shall file health care data with the department of health and environment as prescribed by the secretary of health and environment. The provisions of this section shall not apply to any individual, facility or other entity under this section which uses spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination for the treatment or cure of disease.

Sec. 11. K.S.A. 65-5102, 65-5103, 65-5107 and 65-5115 and K.S.A. 2016 Supp. 39-1908, 65-5101, 65-5104, 65-5112, 65-5117 and 65-6805 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 5, 2017.

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CHAPTER 18

SENATE BILL No. 36  
(Amended by Chapter 100)

AN ACT concerning the state corporation commission; relating to motor carriers, definitions, registration; amending K.S.A. 66-125 and K.S.A. 2016 Supp. 8-135, 8-2703, 16-121, 66-1,108, 66-1,108b, 66-1,109 and 66-1,139 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 8-135 is hereby amended to read as follows: 8-135. (a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use

any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of \$1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of \$1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of ~~subsection (a)~~ of K.S.A. 8-198(a), and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 59-3511, and amendments thereto, the new owner thereof, within 60 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the sixty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the sixty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of \$2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 60 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto,

except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 2016 Supp. 8-135d, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 2016 Supp. 8-135d, and amendments thereto.

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert and certify the mileage and the purchase price on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer and purchase price certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle

or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of \$3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be \$10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) Except for a vehicle registered by a federally recognized Indian

tribe, as provided in paragraph (16), upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. On and after July 1, 2007, only one lien shall be taken or accepted for vehicles with a gross vehicle weight rating of 26,000 pounds or less. As used in this section "gross vehicle weight rating" shall have the meaning ascribed thereto in ~~K.S.A. 66-1-108, and amendments thereto~~ 49 C.F.R. § 390.5, *as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission*. The dealer or secured party, within 30 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle, as referenced in K.S.A. 2016 Supp. 84-9-311, and amendments thereto, on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the lienholder. For any vehicle subject to a lien, the county treasurer shall collect from the applicant a \$1.50 service fee for processing and mailing a copy of the title application to the lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 60 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are sat-

ified if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 60 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of \$10. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security interest that such person seeks to perfect on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of \$10 to the division. Delivery of the surrendered title, application and tender of the required fee shall perfect a security interest in the vehicle as referenced in K.S.A. 2016 Supp. 84-9-311, and amendments thereto. On and after July 1, 2007, only one lien may be taken or accepted for security for an obligation to be secured by a lien to be shown on a certificate of title for vehicles with a gross vehicle weight rating, as defined in ~~K.S.A. 66-1-108, and amendments thereto~~ 49 C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission, of 26,000 pounds or less. A refinancing shall not be subject to the limitations of this act. A refinancing is deemed to occur when the original obligation is satisfied and replaced by a new obligation. Lien obligations created before July 1, 2007, which are of a continuing nature shall not be subject to the limitations of this act until the obligation is satisfied. A lien in violation of this provision is void. Upon receipt of the surrendered title, application and fee, the division shall issue a new certificate of title showing the liens or encumbrances so created, but only one lien or encumbrance may be shown upon a title for vehicles with a gross vehicle rating of 26,000 pounds or less, and not more than two liens or encumbrances may be shown upon a title for vehicles in excess of 26,000 pounds gross vehicle weight rating. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder shall comply with the provisions of K.S.A. 2016 Supp. 8-1,157, and amendments thereto.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 60 days, inclusive

of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 60 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if: (A) The seller mails to the purchaser by restricted mail the assigned certificate of title within 60 days;; or (B) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division;; or (C) if the transferor is a dealer and has assigned a title pursuant to ~~paragraph (9) of this subsection (c)(9).~~

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 60 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to ~~paragraph (7) of subsection (c)(7)~~ and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such

forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of \$10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with ~~subsection (a) of K.S.A. 8-116a(a)~~, and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under ~~paragraph (2) of subsection (c)(2)~~, a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under ~~paragraph (2) of subsection (c)(2)~~ have already been used. The fee for a reassignment form shall be \$6.50. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.

(15) A first stage manufacturer, as defined in K.S.A. 8-2401, and amendments thereto, who manufactures a motor vehicle in this state, and who sells such motor vehicles to dealers located in a foreign country, may execute a manufacturers statement of origin to the division of vehicles for the purpose of obtaining an export certificate of title. The motor vehicle issued an export certificate of title shall not be required to be registered in this state. An export certificate of title shall not be used to register such vehicle in the United States.

(16) A security interest in a vehicle registered by a federally recognized Indian tribe shall be deemed valid under Kansas law if validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.

(17) On and after January 1, 2010, a certificate of title issued for a rebuilt salvage vehicle for the initial time, shall indicate on such title, the



reduced classification of such vehicle as provided under K.S.A. 79-5104, and amendments thereto.

Sec. 2. K.S.A. 2016 Supp. 8-2703 is hereby amended to read as follows: 8-2703. Transportation network companies or drivers shall not be considered motor carriers, private motor carriers or public motor carriers of passengers as those terms are defined in *49 C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission* and K.S.A. 66-1,108, and amendments thereto, nor determined to provide taxicab or for-hire vehicle service so long as such TNC or driver meets the requirements of this act. In addition, a driver shall not be required to register the personal vehicle such driver uses for prearranged rides as a commercial or for-hire vehicle.

Sec. 3. K.S.A. 2016 Supp. 16-121 is hereby amended to read as follows: 16-121. (a) When used in this section:

(1) “Construction contract” means an agreement for the design, construction, alteration, renovation, repair or maintenance of a building, structure, highway, road, bridge, water line, sewer line, oil line, gas line, appurtenance or other improvement to real property, including any moving, demolition or excavation, except that no deed, lease, easement, license or other instrument granting an interest in or the right to possess property shall be deemed to be a construction contract even if the instrument includes the right to design, construct, alter, renovate, repair or maintain improvements on such real property. “Construction contract” shall not include any design, construction, alteration, renovation, repair or maintenance of:

(A) Dirt or gravel roads used to access oil and gas wells and associated facilities; or

(B) oil flow lines or gas gathering lines used in association with the transportation of production from oil and gas wells from the wellhead to oil storage facilities or gas transmission lines.

(2) “Contract” means any construction contract, motor carrier transportation contract, dealer agreement or franchise agreement.

(3) “Damages” means personal injury damages, property damages or economic loss.

(4) “Dealership agreement” means an oral or written agreement of definite or indefinite duration between an equipment manufacturer or service provider and an equipment or service dealer which provides for the rights and obligations of the parties with respect to the purchase or sale of such equipment or services.

(5) “Franchise agreement” means any contract or franchise or any other terminology used to describe the contractual relationship between manufacturers, distributors and dealers, by which:

(A) A right is granted one party to engage in the business of offering,

selling or otherwise distributing goods or services under a marketing plan or system prescribed in substantial part by the other party, and in which there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, agreement or otherwise; and

(B) the operation of the grantee's business pursuant to such agreement is substantially associated with the grantor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the grantor or an affiliate of the grantor.

(6) "Indemnification provision" means a covenant, promise, agreement, clause or understanding in connection with, contained in, or collateral to a contract that requires the promisor to hold harmless, indemnify or defend the promisee or others against liability for loss or damages.

(7) "Motor carrier transportation contract" means, with respect to a motor carrier as defined in ~~K.S.A. 66-1-108, and amendments thereto~~ *49 C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission*, a contract, agreement or understanding covering:

(A) The transportation of property by a motor carrier;

(B) the entrance on property by the motor carrier for the purpose of loading, unloading or transporting property; or

(C) a service incidental to activity described in ~~clause subparagraph~~ (A) or (B) including, but not limited to, storage of property.

"Motor carrier transportation contract" shall not include the uniform intermodal interchange and facilities access agreement administered by the intermodal association of North America or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment.

(8) "Mutual indemnity obligation" means an indemnity obligation in a contract in which the parties agree to indemnify each other and each other's contractors and their employees against loss, liability or damages arising in connection with bodily injury, death and damage to property of the respective employees, contractors or their employees, and invitees of each party arising out of or resulting from the performance of the agreement.

(9) "Promisee" shall include an agent, employee or independent contractor who is directly responsible to the promisee.

(10) "Unilateral indemnity obligation" means an indemnity obligation in a contract in which one of the parties as promisor agrees to indemnify the other party as promisee with respect to claims for personal injury or death to the promisor's employees or agents or to the employees or agents of the promisor's contractors but in which the promisee does not make a reciprocal indemnity to the promisor.

(b) An indemnification provision in a contract which requires the promisor to indemnify the promisee for the promisee's negligence or

intentional acts or omissions is against public policy and is void and unenforceable.

(c) A provision in a contract which requires a party to provide liability coverage to another party, as an additional insured, for such other party's own negligence or intentional acts or omissions is against public policy and is void and unenforceable.

(d) This act shall not be construed to affect or impair:

(1) The contractual obligation of a contractor or owner to provide railroad protective insurance or general liability insurance;

(2) an agreement under which an owner, a responsible party or a governmental entity agrees to indemnify a contractor directly or through another contractor with respect to strict liability under environmental laws;

(3) an indemnification agreement that is an integral part of an offer to compromise or a settlement of a disputed claim, if:

(A) The settlement is based on consideration;

(B) the dispute relates to an alleged event that is related to a construction contract and that occurred before the settlement is made; and

(C) the indemnification relates only to claims that have arisen or may arise from the past event;

(4) the validity of any insurance contract, construction bond or other agreement lawfully issued by an insurer or bonding company;

(5) a separately negotiated provision or provisions whereby the parties mutually agree to a reasonable allocation of risk, if each such provision is:

(A) Based on generally accepted industry loss experience; and

(B) supported by adequate consideration; and

(6) an agreement that provides for indemnity if the parties agree in writing that the indemnity obligation will be supported by liability insurance coverage to be furnished by the promisor subject to the following limitations:

(A) With respect to a mutual indemnity obligation, the indemnity obligation is limited to the extent of the coverage and dollar limits of insurance or qualified self-insurance each party as promisor has agreed to obtain for the benefit of the other party as promisee.

(B) With respect to a unilateral indemnity obligation, the indemnity obligation is limited to the extent of the coverage and dollar limits of insurance the promisor has agreed to obtain for the benefit of the other party as promisee. Such indemnity obligation shall be at the promisee's expense and shall be a separate liability insurance policy.

(e) Notwithstanding any contractual provision to the contrary, the laws of the state of Kansas shall apply to and govern every contract to be performed in this state. Any litigation, arbitration or other dispute resolution proceeding arising from such contract shall be conducted in this

state. Any provision, covenant or clause in such contract that conflicts with the provisions of this subsection shall be void and unenforceable.

(f) This section applies only to indemnification provisions and additional insured provisions entered into after January 1, 2009.

Sec. 4. K.S.A. 66-125 is hereby amended to read as follows: 66-125.

(a) Any investor-owned electric public utility incorporated in the state of Kansas may issue stocks, certificates, bonds, notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, for the purpose of carrying out its corporate powers, the construction, completion, extension or improvements of its facilities, for the improvements or maintenance of its service, for the discharge or lawful refunding of its obligations, or for such other purposes as may be authorized by law. Prior to any such issuance, there shall be secured from the commission a certificate stating the amount, character, purposes and terms on which such stocks, certificates, bonds, notes or other evidences of indebtedness are proposed to be issued, as set out in the application for such certificate. In lieu of securing a certificate from the commission, if the issuance requires a registration statement to be filed with the securities and exchange commission or such utility obtains an authorization or approval of such issuance from another state or federal agency, the public utility may file with the state corporation commission a copy of the information filed with the securities and exchange commission or such other agency.

(b) The proceedings for obtaining such certificate from the commission and the conditions of its being issued shall be as follows:

(1) In case the stocks, certificates, bonds, notes or other evidences of indebtedness are to be issued for money only, the public utility or common carrier shall file with the commission a statement, signed and verified by the president or other chief officer of the company having knowledge of the facts, showing:

(A) The amount and character of the proposed stocks, certificates, bonds, notes or other evidences of indebtedness;

(B) the general purposes for which they are to be issued;

(C) the terms on which they are to be issued;

(D) the total assets and liabilities of the public utility or common carrier; and

(E) that the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidences of indebtedness is necessary and required for such purposes and will be used therefor.

(2) In case stocks, certificates, bonds, notes or other evidences of indebtedness are to be issued partly or wholly for property or services or other consideration than money, the public utility or common carrier shall file with the commission a statement, signed and verified by the president or other chief officer having knowledge of the facts, showing:

- (A) The amount and character of the stocks, certificates, bonds, notes or other evidences of indebtedness proposed to be issued;
- (B) the general purposes for which they are to be issued;
- (C) a general description and an estimated value of the property or services for which they are to be issued;
- (D) the terms on which they are to be issued or exchanged;
- (E) the amount of money, if any, to be received for the same in addition to such property, services or other consideration;
- (F) the total assets and liabilities of the public utility or common carrier; and
- (G) that the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidences of indebtedness is necessary and required for such purposes and will be used therefor.

(c) The commission may also require the public utility or common carrier to furnish such further statements of facts as may be reasonable and pertinent to the inquiry. Upon full compliance by the applicant with the provisions of this section the commission shall forthwith issue a certificate stating the amount, character, purposes and terms upon which such stocks, certificates, bonds, notes or other evidences of indebtedness are proposed to be issued, as set out in the application for such certificate. Any issue of stocks, certificates, bonds, notes or other evidences of indebtedness not payable within one year, which shall be issued by such public utility or common carrier contrary to the provisions of this act shall be voidable by the commission, except as provided in subsection (d).

(d) The provisions of this section shall not apply to motor carriers, as defined in ~~K.S.A. 66-1,108, and amendments thereto~~ 49 C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission, or any public utility except as provided in subsection (a). Any issue of stocks, certificates, bonds, notes or other evidences of indebtedness not payable within one year, which were issued by a motor carrier prior to the effective date of this act without obtaining a certificate from the commission shall be deemed valid.

Sec. 5. K.S.A. 2016 Supp. 66-1,108 is hereby amended to read as follows: 66-1,108. As used in this act:

(a) “Commission” means the corporation commission of the state of Kansas;

(b) ~~“gross combination vehicle weight rating” means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon;~~

~~(e)~~ “gross vehicle weight rating” means the value specified by the manufacturer as the loaded weight of a single motor vehicle;

~~(d)~~ “ground water well drilling rigs” means any vehicle, machine, tractor, trailer, semi-trailer or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water;

~~(e)(c)~~ “household goods” means property and personal effects used or to be used in a dwelling, when a part of the equipment or supply of such dwelling and such other similar property, as the commission may provide by rules and regulations, if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in such householder’s dwelling; or

(2) arranged and paid for by another party.

~~(f)~~ “Motor carrier” means any person operating as a for hire motor carrier or a private motor carrier, and any of that person’s agents, officers, representatives, as well as employees responsible for hiring, supervising, training, assigning or dispatching of drivers and employees concerned with the installation, inspection and maintenance of motor vehicle equipment or accessories or both;

~~(g)~~ “motor vehicle” means any automobile, truck, trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of the state for the purpose of transporting persons or property;

~~(h)~~ “person” means any individual, firm, partnership, limited liability partnership, corporation, limited liability company, association or their lessees, trustees or receivers;

~~(i)~~ “private motor carrier” means a person who provides transportation of property or passengers, by commercial motor vehicle and is not a for hire motor carrier;

~~(j)~~ “public highways” means every public street, alley, road or highway or thoroughfare of any kind used by the public;

~~(k)(d)~~ “public motor carrier of household goods” means any person who undertakes for hire to transport by commercial motor vehicle from place to place, the household goods of others who may choose to employ or contract with the motor carrier;

~~(l)(e)~~ “public motor carrier of passengers” means any person who undertakes for hire to transport by commercial motor vehicle, from place to place, persons who may choose to employ or contract with the motor carrier; and

~~(m)(f)~~ “public motor carrier of property” means any person who undertakes for hire to transport by commercial motor vehicle, from place

to place, the property other than household goods of others who may choose to employ or contract with the motor carrier.

Sec. 6. K.S.A. 2016 Supp. 66-1,108b is hereby amended to read as follows: 66-1,108b. The state corporation commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in ~~K.S.A. 66-1,108, and amendments thereto~~ 49 C.F.R. § 390.5, *as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission*, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. The commission shall have general supervision of all motor carriers operating in this state. The commission shall inquire into any neglect or violations of the laws pertaining to the regulation of motor carriers of this state by any motor carrier or any person retaining the transportation services of that motor carrier. From time to time, the commission shall carefully examine and inspect the condition of each motor carrier, its equipment, the manner of its conduct and its management with reference to the public safety and convenience. Nothing in this section shall be construed as relieving any motor carrier from responsibility or liability for damage to person or property.

Sec. 7. K.S.A. 2016 Supp. 66-1,109 is hereby amended to read as follows: 66-1,109. This act shall not require the following carriers to obtain a certificate, license or permit from the commission or file rates, tariffs, annual reports or provide proof of insurance with the commission:

(a) Transportation by motor carriers wholly within the corporate limits of a city or village in this state, or between contiguous cities or villages in this state or in this and another state, or between any city or village in this or another state and the suburban territory in this state within three miles of the corporate limits, or between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority, except that none of the exemptions specified in this subsection (a) shall apply to wrecker carriers;

(b) a private motor carrier who operates within a radius of 25 miles beyond the corporate limits of its city or village of domicile, or who operates between cities and villages in this state and cities and villages in another state which are within territory designated as a commercial zone by the relevant federal authority. For the purpose of this subsection, “domicile” shall mean the principal place of business of a motor carrier;

(c) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such

owner or producer in a motor vehicle of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;

(d) (1) the transportation of children to and from school; (2) to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies, when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities; or (3) motor vehicles owned by nonprofit organizations meeting the qualification requirements of section 501(c) of the internal revenue code of 1986, and amendments thereto, when transporting property or materials belonging to the owner of the vehicle;

(e) a new vehicle dealer as defined by K.S.A. 8-2401, and amendments thereto, when transporting property to or from the place of business of such dealer;

(f) motor vehicles carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work, not having been sold or being transported for the purpose of sale;

(g) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;

(h) the operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers;

(i) motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivision of this state, including vehicles used exclusively for handling U.S. mail, and the operation of motor vehicles used exclusively by organizations operating public transportation systems pursuant to 49 U.S.C. §§ 5307, 5310 and 5311;

(j) any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not-for-profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity of not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work;

(k) motor vehicles used to transport water for domestic purposes, as defined by K.S.A. 82a-701(c), and amendments thereto, or livestock consumption;

(l) transportation of sand, gravel, slag stone, limestone, crushed stone, cinders, calcium chloride, bituminous or concrete mixtures, blacktop, dirt or fill material to a construction site, highway maintenance or construction



project or other storage facility and the operation of ready-mix concrete trucks in transportation of ready-mix concrete;

(m) the operation of a vehicle used exclusively for the transportation of solid waste, as the same is defined by K.S.A. 65-3402, and amendments thereto, to any solid waste processing facility or solid waste disposal area, as the same is defined by K.S.A. 65-3402, and amendments thereto;

(n) the transporting of vehicles used solely in the custom combining business when being transported by persons engaged in such business;

(o) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state;

(p) transportation by taxi or bus companies *operating commercial motor vehicles, as defined in 49 C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission* and operated exclusively within any city or within 25 miles of the point of its domicile in a city. For the purpose of this subsection, "domicile" shall mean the principal place of business of a motor carrier;

(q) a vehicle being operated with a dealer license plate issued under K.S.A. 8-2406, and amendments thereto, and in compliance with K.S.A. 8-136, and amendments thereto, and vehicles being operated with a full-privilege license plate issued under K.S.A. 8-2425, and amendments thereto;

(r) the operation of vehicles used for transporting materials used in the servicing or repairing of the refractory linings of industrial boilers;

(s) transportation of newspapers published at least one time each week;

(t) transportation of animal dung to be used for fertilizer;

(u) the operation of ground water well drilling rigs;

(v) the transportation of cotton modules from the field to the gin;

(w) the transportation of custom harvested silage, including, but not limited to, corn, wheat and milo; and

(x) private motor carriers domiciled in Kansas operating commercial motor vehicles (CMV) with a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) of 10,001 to 26,000 pounds and registered pursuant to K.S.A. 8-126 et seq., and amendments thereto. This exception does not apply to commercial motor vehicles, regardless of weight, which are designed or used to transport 16 or more passengers, including the driver, or intrastate public (for hire) motor carriers of property or passengers, or any motor vehicles which are used in the transportation of hazardous materials and required to be placarded pursuant to

49 C.F.R. part 172, subpart F. For the purpose of this subsection, “domicile” shall mean the principal place of business of a motor carrier or a permanent location in Kansas for a vehicle or vehicles annually registered in Kansas.

Sec. 8. K.S.A. 2016 Supp. 66-1,139 is hereby amended to read as follows: 66-1,139. (a) All interstate regulated public motor carriers of property, of household goods or of passengers who operate a motor vehicle in Kansas shall register their motor vehicles in their base state pursuant to federal statutes, unless exempted under the provision of K.S.A. 66-1,109, and amendments thereto.

(b) All intrastate public motor carriers of property, household goods or passengers private motor carriers of property shall register with the commission all trucks or truck tractors as defined by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles *that meet the definition of commercial motor vehicle as defined in 49 C.F.R. § 390.5, as in effect on July 1, 2017, or any later version as established in rules and regulations adopted by the state corporation commission*, used to transport persons for hire, used in the operation of their business as such, except those used in operations exempted under the provisions of K.S.A. 66-1,109, and amendments thereto.

~~(c) Interstate motor carriers which have been granted authority by the commission to transport commodities exempt from the jurisdiction of the relevant federal authority and who operate for hire or who operate as private motor carriers shall register all trucks or truck tractors as defined by K.S.A. 8-126, and amendments thereto, and all other passenger vehicles used to transport persons for hire, used in the operation of their business as such, except those used in operations exempted under the provisions of K.S.A. 66-1,109, and amendments thereto. For the purpose of assisting in paying the cost of supervision and regulation of motor carriers, every such carrier shall annually pay to the commission for each calendar year a regulatory fee of \$10 for each truck, truck tractor or passenger vehicle registered with the commission. No fee shall be charged for a trailer or semitrailer. Interstate motor carriers that are already registered pursuant to subsection (a), shall not be required to register under this subsection.~~

~~(d) All applications for registration shall be made on forms furnished by the commission. Applications for registration of interstate common or contract motor carriers shall include on the application the quantity of trucks, truck tractors or passenger vehicles used by the motor carriers on which a fee is required to be paid. Applications for registration of intrastate common motor carriers; and private motor carriers; and interstate exempt motor carriers shall include the complete vehicle identification numbers and the year and make of all trucks, truck tractors or passenger vehicles used by the motor carrier, on which a fee is required to be paid,~~

and the application shall be accompanied by the required fee. The fees shall be due January 1 and shall be paid not later than January 15. Upon receipt of the application and fee, the commission shall issue to the carrier appropriate credentials for each vehicle registered.

(e) The commission shall remit all moneys received by it or for it in payment of fees imposed 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 motor carrier license fees fund.

Sec. 9. K.S.A. 66-125 and K.S.A. 2016 Supp. 8-135, 8-2703, 16-121, 66-1,108, 66-1,108b, 66-1,109 and 66-1,139 are hereby repealed.

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

Approved April 5, 2017.



CHAPTER 19

SENATE BILL No. 63

AN ACT enacting the revised uniform fiduciary access to digital assets act; amending K.S.A. 58a-816 and 59-3078 and K.S.A. 2016 Supp. 58-654, 59-3075 and 77-201 and repealing the existing sections.

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

New Section 1. This act may be cited as the revised uniform fiduciary access to digital assets act (2015).

New Sec. 2. In this act:

(a) "Account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives or stores a digital asset of the user or provides goods or services to the user.

(b) "Agent" means an attorney-in-fact granted authority under a durable or nondurable power of attorney.

(c) "Carries" means engages in the transmission of an electronic communication.

(d) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication and the electronic address of the person.

(e) "Conservatee" means an individual for whom a conservator has been appointed.

(f) "Conservator" means a person appointed by a court pursuant to

K.S.A. 59-3050 et seq., and amendments thereto, to manage the estate of a minor or adult individual. The term includes a temporary conservator.

(g) “Content of an electronic communication” means information concerning the substance or meaning of the communication which:

(1) Has been sent or received by a user;

(2) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(3) is not readily accessible to the public.

(h) “Court” means the district court.

(i) “Custodian” means a person that carries, maintains, processes, receives or stores a digital asset of a user.

(j) “Designated recipient” means a person chosen by a user using an online tool to administer digital assets of the user.

(k) “Digital asset” means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(l) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(m) “Electronic communication” has the meaning set forth in 18 U.S.C. § 2510(12).

(n) “Electronic communication service” means a custodian that provides to a user the ability to send or receive an electronic communication.

(o) “Fiduciary” means an original, additional or successor personal representative, guardian, conservator, agent or trustee.

(p) “Guardian” means a person appointed by the court pursuant to K.S.A. 59-3050 et seq., and amendments thereto, to make decisions regarding the support, care, education, health and welfare of a minor or adult individual. The term includes a temporary guardian but does not include a guardian ad litem.

(q) “Information” means data, text, images, videos, sounds, codes, computer programs, software, databases or the like.

(r) “Online tool” means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(s) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or other legal entity.

(t) “Personal representative” means an executor, administrator, special administrator or person that performs substantially the same function under law of this state other than this act.

(u) “Power of attorney” means a record that grants an agent authority to act on behalf of a principal.

(v) “Principal” means an individual who grants authority to an agent in a power of attorney.

(w) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(x) “Remote computing service” means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14).

(y) “Terms of service agreement” means an agreement that controls the relationship between a user and a custodian.

(z) “Trustee” means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

(aa) “User” means a person that has an account with a custodian.

(bb) “Ward” means an individual for whom a guardian has been appointed.

(cc) “Will” includes a codicil, a testamentary instrument that only appoints an executor and an instrument that revokes or revises a testamentary instrument.

New Sec. 3. (a) This act applies to:

(1) A fiduciary acting under a will or power of attorney executed before, on or after July 1, 2017;

(2) a personal representative acting for a decedent who died before, on or after July 1, 2017;

(3) a guardianship or conservatorship proceeding commenced before, on or after July 1, 2017; and

(4) a trustee acting under a trust created before, on or after July 1, 2017.

(b) This act applies to a custodian if the user resides in this state or resided in this state at the time of the user’s death.

(c) This act does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer’s business.

New Sec. 4. (a) A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user’s digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney or other record.

(b) If a user has not used an online tool to give direction under subsection (a) or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney or other record,

disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(c) A user's direction under subsection (a) or (b) overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

New Sec. 5. (a) This act does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(b) This act does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law or by a terms-of-service agreement if the user has not provided direction under section 4, and amendments thereto.

New Sec. 6. (a) When disclosing digital assets of a user under this act, the custodian may at its sole discretion:

(1) Grant a fiduciary or designated recipient full access to the user's account;

(2) grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this act.

(c) A custodian need not disclose under this act a digital asset deleted by a user.

(d) If a user directs or a fiduciary requests a custodian to disclose under this act some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

(1) A subset limited by date of the user's digital assets;

(2) all of the user's digital assets to the fiduciary or designated recipient;

(3) none of the users digital assets; or

(4) all of the user's digital assets to the court for review in camera.

New Sec. 7. If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian

shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

- (a) A written request for disclosure in physical or electronic form;
- (b) a certified copy of the death certificate of the user;
- (c) a certified copy of the letter of appointment of the representative or a small estate affidavit or court order;
- (d) unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney or other record evidencing the user's consent to disclosure of the content of electronic communications; and
- (e) if requested by the custodian:
  - (1) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - (2) evidence linking the account to the user; or
  - (3) a finding by the court that:
    - (A) The user had a specific account with the custodian, identifiable by the information specified in subsection (e)(1);
    - (B) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. § 2701 et seq., 47 U.S.C. § 222 or other applicable law;
    - (C) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or
    - (D) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

New Sec. 8. Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user, if the representative gives the custodian:

- (a) A written request for disclosure in physical or electronic form;
- (b) a certified copy of the death certificate of the user;
- (c) a certified copy of the letter of appointment of the representative or a small estate affidavit or court order; and
- (d) if requested by the custodian:
  - (1) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - (2) evidence linking the account to the user;
  - (3) an affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or
  - (4) a finding by the court that:
    - (A) The user had a specific account with the custodian, identifiable by the information specified in subsection (d)(1); or

(B) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

New Sec. 9. To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

- (a) A written request for disclosure in physical or electronic form;
- (b) an original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;
- (c) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and
- (d) if requested by the custodian:
  - (1) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or
  - (2) evidence linking the account to the principal.

New Sec. 10. Unless otherwise ordered by the court, directed by the principal or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

- (a) A written request for disclosure in physical or electronic form;
- (b) an original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;
- (c) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and
- (d) if requested by the custodian:
  - (1) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or
  - (2) evidence linking the account to the principal.

New Sec. 11. Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

New Sec. 12. Unless otherwise ordered by the court, directed by the user or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic commu-



nication sent or received by an original or successor user and carried, maintained, processed, received or stored by the custodian in the account of the trust if the trustee gives the custodian:

- (a) A written request for disclosure in physical or electronic form;
- (b) a certified copy of the trust instrument or a certification of the trust under K.S.A. 58a-1013, and amendments thereto, that includes consent to disclosure of the content of electronic communications to the trustee;
- (c) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and
- (d) if requested by the custodian:
  - (1) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the trust’s account; or
  - (2) evidence linking the account to the trust.

New Sec. 13. Unless otherwise ordered by the court, directed by the user or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

- (a) A written request for disclosure in physical or electronic form;
- (b) a certified copy of the trust instrument or a certification of the trust under K.S.A. 58a-1013, and amendments thereto;
- (c) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and
- (d) if requested by the custodian:
  - (1) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the trust’s account; or
  - (2) evidence linking the account to the trust.

New Sec. 14. (a) After an opportunity for a hearing under K.S.A. 59-3050 et seq., and amendments thereto, the court may grant a guardian or conservator access to the digital assets of a ward or conservatee.

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a guardian or conservator the catalogue of electronic communications sent or received by a ward or conservatee and any digital assets, other than the content of electronic communications, in which the ward or conservatee has a right or interest if the guardian or conservator gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) a certified copy of the court order that gives the guardian or conservator authority over the digital assets of the ward or conservatee; and

(3) if requested by the custodian:

(A) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the account of the ward or conservatee; or

(B) evidence linking the account to the ward or conservatee.

(c) A guardian or conservator with general authority to manage the assets of a ward or conservatee may request a custodian of the digital assets of the ward or conservatee to suspend or terminate an account of the ward or conservatee for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the guardian or conservator authority over the ward or conservatee's property.

New Sec. 15. (a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

(1) The duty of care;

(2) the duty of loyalty; and

(3) the duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(1) Except as otherwise provided in section 4, and amendments thereto, is subject to the applicable terms of service;

(2) is subject to other applicable laws, including copyright laws;

(3) in the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(4) may not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, ward or conservatee, principal or settlor has the right to access any digital asset in which the decedent, ward or conservatee, principal or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, ward or conservatee, principal or settlor for the purpose of applicable computer fraud and unauthorized computer access laws, including K.S.A. 2016 Supp. 21-5839, and amendments thereto.

(e) A fiduciary with authority over the tangible, personal property of a decedent, ward or conservatee, principal or settlor:

(1) Has the right to access the property and any digital asset stored in it; and

(2) is an authorized user for the purpose of computer fraud and unauthorized computer access laws, including K.S.A. 2016 Supp. 21-5839, and amendments thereto.

(f) A custodian may disclose information in an account to a fiduciary

of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(g) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

(1) If the user is deceased, a certified copy of the death certificate of the user;

(2) a certified copy of the letter of appointment of the representative or a small estate affidavit or court order, court order, power of attorney or trust giving the fiduciary authority over the account; and

(3) if requested by the custodian:

(A) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) evidence linking the account to the user; or

(C) a finding by the court that the user had a specific account with the custodian, identifiable by the information specified in subparagraph (A).

New Sec. 16. (a) Not later than 60 days after receipt of the information required under sections 7 through 15, and amendments thereto, a custodian shall comply with a request under this act from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(b) An order under subsection (a) directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. § 2702.

(c) A custodian may notify the user that a request for disclosure or to terminate an account was made under this act.

(d) A custodian may deny a request under this act from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(e) This act does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this act to obtain a court order which:

(1) Specifies that an account belongs to the ward, conservatee or principal;

(2) specifies that there is sufficient consent from the ward, conservatee or principal to support the requested disclosure; and

(3) contains a finding required by law other than this act.

(f) A custodian and its officers, employees and agents are immune from liability for an act or omission done in good faith in compliance with this act.

New Sec. 17. In applying and construing this uniform act, consider-

ation must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

New Sec. 18. This act modifies, limits or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. § 7001 et seq., but does not modify, limit or supersede § 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in § 103(b) of that act, 15 U.S.C. § 7003(b).

New Sec. 19. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does 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 severable.

Sec. 20. K.S.A. 2016 Supp. 58-654 is hereby amended to read as follows: 58-654. (a) A principal may delegate to an attorney in fact in a power of attorney general powers to act in a fiduciary capacity on the principal's behalf with respect to all lawful subjects and purposes or with respect to one or more express subjects or purposes. A power of attorney with general powers may be durable or nondurable.

(b) If the power of attorney states that general powers are granted to the attorney in fact and further states in substance that it grants power to the attorney in fact to act with respect to all lawful subjects and purposes or that it grants general powers for general purposes or does not by its terms limit the power to the specific subject or purposes set out in the instrument, then the authority of the attorney in fact acting under the power of attorney shall extend to and include each and every action or power which an adult who is not disabled may carry out through an agent specifically authorized in the premises, with respect to any and all matters whatsoever, except as provided in subsection (f) and (g). When a power of attorney grants general powers to an attorney in fact to act with respect to all lawful subjects and purposes, the enumeration of one or more specific subjects or purposes does not limit the general authority granted by that power of attorney, unless otherwise provided in the power of attorney. An attorney in fact vested with general powers shall be authorized to execute a power of attorney required by any governmental agency or other legal entity on behalf of the principal, naming such attorney in fact as the attorney in fact authorized to enter into any transaction with such agency or legal entity.

(c) If the power of attorney states that general powers are granted to an attorney in fact with respect to one or more express subjects or purposes for which general powers are conferred, then the authority of the attorney in fact acting under the power of attorney shall extend to and include each and every action or power, but only with respect to the specific subjects or purposes expressed in the power of attorney that an adult who is not disabled may carry out through an agent specifically

authorized in the premises, with respect to any and all matters whatsoever, except as provided in subsection (f) and (g).

(d) Except as provided in subsections (f) and (g), an attorney in fact with general powers has, with respect to the subjects or purposes for which the powers are conferred, all rights, power and authority to act for the principal that the principal would have with respect to the principal's own person or property, including property owned jointly or by the entireties with another or others, as an adult who is not disabled. Without limiting the foregoing an attorney in fact with general powers has, with respect to the subject or purposes of the power, complete discretion to make a decision for the principal, to act or not act, to consent or not consent to, or withdraw consent for, any act, and to execute and deliver or accept any deed, bill of sale, bill of lading, assignment, contract, note, security instrument, consent, receipt, release, proof of claim, petition or other pleading, tax document, notice, application, acknowledgment or other document necessary or convenient to implement or confirm any act, transaction or decision. An attorney in fact with general powers, whether power to act with respect to all lawful subjects and purposes, or only with respect to one or more express subjects or purposes, shall have the power, unless specifically denied by the terms of the power of attorney, to make, execute and deliver to or for the benefit of or at the request of a third person, who is requested to rely upon an action of the attorney in fact, an agreement indemnifying and holding harmless any third person or persons from any liability, claims or expenses, including legal expenses, incurred by any such third person by reason of acting or refraining from acting pursuant to the request of the attorney in fact. Such indemnity agreement shall be binding upon the principal who has executed such power of attorney and upon the principal's successor or successors in interest. No such indemnity agreement shall protect any third person from any liability, claims or expenses incurred by reason of the fact that, and to the extent that, the third person has honored the power of attorney for actions outside the scope of authority granted by the power of attorney. In addition, the attorney in fact has complete discretion to employ and compensate real estate agents, brokers, attorneys, accountants and subagents of all types to represent and act for the principal in any and all matters, including tax matters involving the United States government or any other government or taxing entity, including, but not limited to, the execution of supplemental or additional powers of attorney in the name of the principal in form that may be required or preferred by any such taxing entity or other third person, and to deal with any or all third persons in the name of the principal without limitation. No such supplemental or additional power of attorney shall broaden the scope of authority granted to the attorney in fact in the original power of attorney executed by the principal.

(e) An attorney in fact, who is granted general powers for all subjects

and purposes or with respect to any express subjects or purposes, shall exercise the powers conferred according to the principal's instructions, in the principal's best interest, in good faith, prudently and in accordance with K.S.A. 58-655 and 58-656, and amendments thereto.

(f) Any power of attorney, whether or not it grants general powers for all subjects and purposes or with respect to express subjects or purposes, shall be construed to grant power or authority to an attorney in fact to carry out any of the actions described in this subsection only if the actions are expressly enumerated and authorized in the power of attorney. Any power of attorney may grant power or authority to an attorney in fact to carry out any of the following actions if the actions are expressly authorized in the power of attorney:

- (1) To execute, amend or revoke any trust agreement;
- (2) to fund with the principal's assets any trust not created by the principal;
- (3) to make or revoke a gift of the principal's property in trust or otherwise;
- (4) to disclaim a gift or devise of property to or for the benefit of the principal;
- (5) to create or change survivorship interests in the principal's property or in property in which the principal may have an interest. The inclusion of the authority set out in this paragraph shall not be necessary in order to grant to an attorney in fact acting under a power of attorney granting general powers with respect to all lawful subjects and purposes the authority to withdraw funds or other property from any account, contract or other similar arrangement held in the names of the principal and one or more other persons with any financial institution, brokerage company or other depository to the same extent that the principal would be authorized to do if the principal were present, not disabled and seeking to act in the principal's own behalf;
- (6) to designate or change the designation of beneficiaries to receive any property, benefit or contract right on the principal's death;
- (7) to give or withhold consent to an autopsy or postmortem examination;
- (8) to make a gift of, or decline to make a gift of, the principal's body parts under the revised uniform anatomical gift act, K.S.A. 2016 Supp. 65-3220 through 65-3244, and amendments thereto;
- (9) to nominate a guardian or conservator for the principal; and if so stated in the power of attorney, the attorney in fact may nominate such attorney in fact's self as such;
- (10) to give consent on behalf of the principal to the sale, gift, transfer, mortgage or other alienation of the principal's homestead or interest therein if:
  - (A) The principal's spouse, personally or through such spouse's attorney in fact, has also consented to such alienation;

(B) the power of attorney specifically describes the homestead by reference to a legal description and the street address of the property; and

(C) the principal’s spouse, in a written document duly acknowledged by the spouse, has stated such spouse’s consent that the attorney in fact may alienate the interests, in whole or in part, of the principal in the described homestead and, further, the spouse agrees that the consent of the attorney in fact will constitute the consent of the principal required by ~~Article 15, Section 9 of the Kansas Constitution~~ *section 9 of article 15 of the constitution of the state of Kansas*. Nothing herein shall be construed as a limitation or abridgement of the right of the spouse of the principal to consent or withhold such spouse’s consent to the alienation of the spouse’s homestead, or any rights therein, under ~~Article 15, section 9 of the Kansas Constitution~~ *section 9 of article 15 of the constitution of the state of Kansas*;

(11) to designate one or more substitute or successor or additional attorneys in fact;

(12) to delegate any or all powers granted in a power of attorney pursuant to ~~subsection (a) of K.S.A. 58-660(a)~~, and amendments thereto; ~~or~~

(13) *to exercise authority over the content of an electronic communication of the principal pursuant to section 9, and amendments thereto; or*

(14) to pay reasonable expenses incurred for the funeral and burial or other disposition of the body of the principal.

(g) No power of attorney, whether or not it delegates general powers, may delegate or grant power or authority to an attorney in fact to do or carry out any of the following actions for the principal:

(1) To make, publish, declare, amend or revoke a will for the principal;

(2) to make, execute, modify or revoke a declaration under K.S.A. 65-28,101 et seq., and amendments thereto, for the principal or to make, execute, modify or revoke a do not resuscitate directive under K.S.A. 65-4941, and amendments thereto, for the principal or to make, execute, modify or revoke a durable power of attorney for health care decisions pursuant to K.S.A. 58-625 et seq., and amendments thereto, for the principal;

(3) to require the principal, against the principal’s will, to take any action or to refrain from taking any action; or

(4) to carry out any actions specifically forbidden by the principal while not under any disability or incapacity.

(h) A third person may freely rely on, contract and deal with an attorney in fact delegated general powers with respect to the subjects and purposes encompassed or expressed in the power of attorney without regard to whether the power of attorney expressly identifies the specific

property, account, security, storage facility or matter as being within the scope of a subject or purpose contained in the power of attorney, and without regard to whether the power of attorney expressly authorizes the specific act, transaction or decision by the attorney in fact.

(i) It is the policy of this state that an attorney in fact acting pursuant to the provisions of a power of attorney granting general powers shall be accorded the same rights and privileges with respect to the personal welfare, property and business interests of the principal, and if the power of attorney enumerate some express subjects or purposes, with respect to those subjects or purposes, as if the principal was personally present and acting or seeking to act; and any provision of law and any purported waiver, consent or agreement executed or granted by the principal to the contrary shall be void and unenforceable.

(j) K.S.A. 58-650 through 58-665, and amendments thereto, shall not be construed to preclude any person or business enterprise from providing in a contract with the principal as to the procedure that thereafter must be followed by the principal or the principal's attorney in fact in order to give a valid notice to the person or business enterprise of any modification or termination of the appointment of an attorney in fact by the principal. Any such contractual provision for notice shall be valid and binding on the principal and the principal's successors so long as such provision is reasonably capable of being carried out.

Sec. 21. K.S.A. 58a-816 is hereby amended to read as follows: 58a-816. Without limiting the authority conferred by K.S.A. 58a-815, and amendments thereto, a trustee may:

- (1) Collect trust property and accept or reject additions to the trust property from a settlor or any other person;
- (2) acquire or sell property, for cash or on credit, at public or private sale;
- (3) exchange, partition, or otherwise change the character of trust property;
- (4) deposit trust money in an account in a regulated financial-service institution;
- (5) borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;
- (6) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;
- (7) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:



(A) Vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;

(B) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;

(C) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and

(D) deposit the securities with a depository or other regulated financial-service institution;

(8) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements and make or vacate plats and adjust boundaries;

(9) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;

(10) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust and exercise an option so acquired;

(11) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;

(12) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;

(13) with respect to possible liability for violation of environmental law:

(A) Inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

(B) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;

(C) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;

(D) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and

(E) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;

(14) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;

(15) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust and other expenses incurred in the administration of the trust;

(16) exercise elections with respect to federal, state, and local taxes;

(17) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;

(18) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;

(19) pledge trust property to guarantee loans made by others to the beneficiary;

(20) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;

(21) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:

(A) Paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;

(B) paying it to the beneficiary's custodian, attorney-in-fact, custodial trustee or other person with legal authority to receive such funds for the benefit of the beneficiary;

(C) if the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or

(D) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;

(22) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

(23) resolve a dispute concerning the interpretation of the trust or its

administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(24) prosecute or defend an action, claim or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(25) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; ~~and~~

(26) *access digital assets held in trust pursuant to sections 11, 12 and 13, and amendments thereto; and*

(27) on termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it.

Sec. 22. K.S.A. 2016 Supp. 59-3075 is hereby amended to read as follows: 59-3075. (a) (1) The individual or corporation appointed by the court to serve as the guardian shall carry out diligently and in good faith, the general duties and responsibilities, and shall have the general powers and authorities, provided for in this section as well as any specific duties, responsibilities, powers and authorities assigned to the guardian by the court. In doing so, a guardian shall at all times be subject to the control and direction of the court, and shall act in accordance with the provisions of any guardianship plan filed with the court pursuant to K.S.A. 59-3076, and amendments thereto. The court shall have the authority to appoint counsel for the guardian, and the fees of such attorney may be assessed as costs pursuant to K.S.A. 59-3094, and amendments thereto.

(2) A guardian shall become and remain personally acquainted with the ward, the spouse of the ward and with other interested persons associated with the ward and who are knowledgeable about the ward, the ward's needs and the ward's responsibilities. A guardian shall exercise authority only as necessitated by the ward's limitations. A guardian shall encourage the ward to participate in making decisions affecting the ward. A guardian shall encourage the ward to act on the ward's own behalf to the extent the ward is able. A guardian shall encourage the ward to develop or regain the skills and abilities necessary to meet the ward's own essential needs and to otherwise manage the ward's own affairs. In making decisions on behalf of the ward, a guardian shall consider the expressed desires and personal values of the ward to the extent known to the guardian. A guardian shall strive to assure that the personal, civil and human rights of the ward are protected. A guardian shall at all times act in the best interests of the ward and shall exercise reasonable care, diligence and prudence.

(b) A guardian shall have the following general duties, responsibilities, powers and authorities:

(1) If the ward is a minor, to have the custody and control of the

minor, and to provide for the minor's care, treatment, habilitation, education, support and maintenance;

(2) if the ward is an adult, to take charge of the person of the ward, and to provide for the ward's care, treatment, habilitation, education, support and maintenance;

(3) to consider and either provide on behalf of the ward necessary or required consents or refuse the same;

(4) to assure that the ward resides in the least restrictive setting appropriate to the needs of the ward and which is reasonably available;

(5) to assure that the ward receives any necessary and reasonably available medical care, consistent with the provisions of K.S.A. 59-3077, and amendments thereto, when applicable, and any reasonably available nonmedical care or other services as may be needed to preserve the health of the ward or to assist the ward to develop or retain skills and abilities;

(6) to promote and protect the comfort, safety, health and welfare of the ward;

(7) to make necessary determinations and arrangements for, and to give the necessary consents in regard to, the ward's funeral arrangements, burial or cremation, the performance of an autopsy upon the body of the ward, and anatomical gifts of the ward, subject to the provisions and limitations provided for in K.S.A. 2016 Supp. 65-3228, K.S.A. 65-2893 and 65-1734, and amendments thereto; and

(8) to exercise all powers and to discharge all duties necessary or proper to implement the provisions of this section.

(c) A guardian shall not be obligated by virtue of the guardian's appointment to use the guardian's own financial resources for the support of the ward.

(d) A guardian shall not be liable to a third person for the acts of the ward solely by virtue of the guardian's appointment, nor shall a guardian who exercises reasonable care in selecting a third person to provide any medical or other care, treatment or service for the ward be liable for any injury to the ward resulting from the wrongful conduct of that third person.

(e) A guardian shall not have the power:

(1) To prohibit the marriage or divorce of the ward;

(2) to consent, on behalf of the ward, to the termination of the ward's parental rights;

(3) to consent to the adoption of the ward, unless approved by the court;

(4) to consent, on behalf of the ward, to any psychosurgery, removal of any bodily organ, or amputation of any limb, unless such surgery, removal or amputation has been approved in advance by the court, except in an emergency and when necessary to preserve the life of the ward or to prevent serious and irreparable impairment to the physical health of the ward;

(5) to consent, on behalf of the ward, to the sterilization of the ward, unless approved by the court following a due process hearing held for the purposes of determining whether to approve such, and during which hearing the ward is represented by an attorney appointed by the court;

(6) to consent, on behalf of the ward, to the performance of any experimental biomedical or behavioral procedure on the ward, or for the ward to be a participant in any biomedical or behavioral experiment, without the prior review and approval of such by either an institutional review board as provided for in title 45, part 46 of the code of federal regulations, or if such regulations do not apply, then by a review committee established by the agency, institution or treatment facility at which the procedure or experiment is proposed to occur, composed of members selected for the purposes of determining whether the proposed procedure or experiment:

(A) Does not involve any significant risk of harm to the physical or mental health of the ward, or the use of aversive stimulants, and is intended to preserve the life or health of the ward or to assist the ward to develop or regain skills or abilities; or

(B) involves a significant risk of harm to the physical or mental health of the ward, or the use of an aversive stimulant, but that the conducting of the proposed procedure or experiment is intended either to preserve the life of the ward, or to significantly improve the quality of life of the ward, or to assist the ward to develop or regain significant skills or abilities, and that the guardian has been fully informed concerning the potential risks and benefits of the proposed procedure or experiment or of any aversive stimulant proposed to be used, and as to how and under what circumstances the aversive stimulant may be used, and has specifically consented to such;

(7) to consent, on behalf of the ward, to the withholding or withdrawal of life-saving or life sustaining medical care, treatment, services or procedures, except:

(A) In accordance with the provisions of any declaration of the ward made pursuant to the provisions of K.S.A. 65-28,101 through 65-28,109, and amendments thereto; or

(B) if the ward, prior to the court's appointment of a guardian pursuant to K.S.A. 59-3067, and amendments thereto, shall have executed a durable power of attorney for health care decisions pursuant to K.S.A. 58-629, and amendments thereto, and such shall not have been revoked by the ward prior thereto, and there is included therein any provision relevant to the withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures, then the guardian shall have the authority to act as provided for therein, even if the guardian has revoked or otherwise amended that power of attorney pursuant to the authority of K.S.A. 58-627, and amendments thereto, or the guardian may allow the agent appointed by the ward to act on the ward's behalf if the

guardian has not revoked or otherwise amended that power of attorney;  
or

(C) in the circumstances where the ward's treating physician shall certify in writing to the guardian that the ward is in a persistent vegetative state or is suffering from an illness or other medical condition for which further treatment, other than for the relief of pain, would not likely prolong the life of the ward other than by artificial means, nor would be likely to restore to the ward any significant degree of capabilities beyond those the ward currently possesses, and which opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the health care provider has access established for the purposes of reviewing such circumstances and the appropriateness of any type of physician's order which would have the effect of withholding or withdrawing life-saving or life sustaining medical care, treatment, services or procedures. Such written certification shall be approved by an order issued by the court;

(8) to exercise any control or authority over the ward's estate, except if the court shall specifically authorize such. The court may assign such authority to the guardian, including the authority to establish certain trusts as provided in K.S.A. 59-3080, and amendments thereto, and may waive the requirement of the posting of a bond, only if:

(A) Initially, the combined value of any funds and property in the possession of the ward or in the possession of any other person or entity, but which the ward is otherwise entitled to possess, equals \$10,000 or less; and

(B) either the court requires the guardian to report to the court the commencement of the exercising of such authority, or requires the guardian to specifically request of the court the authority to commence the exercise of such authority, as the court shall specify; and

(C) the court also requires the guardian, whenever the combined value of such funds and property exceeds \$10,000, to:

(i) File a guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, which contains elements similar to those which would be contained in a conservatorship plan as provided for in K.S.A. 59-3078, and amendments thereto;

(ii) petition the court for appointment of a conservator as provided for in K.S.A. 59-3058, 59-3059 or 59-3060, and amendments thereto; or

(iii) notify the court as the court shall specify that the value of the conservatee's estate has equaled or exceeded \$10,000, if the court has earlier appointed a conservator but did not issue letters of conservatorship pending such notification; ~~and~~

(9) to place the ward in a treatment facility as defined in K.S.A. 59-3077, and amendments thereto, except if authorized by the court as provided for therein; *or*

(10) *to access digital assets of the ward except if authorized by the court pursuant to section 14, and amendments thereto.*

(f) The guardian shall file with the court reports concerning the status of the ward and the actions of the guardian as the court shall direct pursuant to K.S.A. 59-3083, and amendments thereto.

Sec. 23. K.S.A. 59-3078 is hereby amended to read as follows: 59-3078. (a) (1) The individual or corporation appointed by the court to serve as the conservator shall carry out diligently and in good faith the general duties and responsibilities, and shall have the general powers and authorities, provided for in this section, as well as any specific duties, responsibilities, powers and authorities assigned to the conservator by the court. In doing so, a conservator at all times shall be subject to the control and direction of the court, and shall act in accordance with the provisions of any conservatorship plan filed with the court pursuant to K.S.A. 59-3079, and amendments thereto. The court shall have the authority to appoint counsel for the conservator, and the fees of such attorney may be assessed as costs pursuant to K.S.A. 59-3094, and amendments thereto.

(2) A conservator, in the exercise of the conservator's responsibilities and authorities, should become aware of the conservatee's needs and responsibilities. A conservator shall exercise authority only as necessitated by the conservatee's limitations. A conservator shall encourage the conservatee to participate in the making of decisions affecting the conservatee's estate. A conservator shall encourage the conservatee to manage as much of the conservatee's estate as the conservatee is able to manage. A conservator shall consider and, to the extent possible, act in accordance with the expressed desires and personal values of the conservatee. A conservator shall assist the conservatee in developing or regaining the skills and abilities necessary in order for the conservatee to be able to manage the conservatee's own estate. A conservator shall strive to assure that the personal, civil and human rights of the conservatee are protected. A conservator shall at all times act in the best interests of the conservatee and shall exercise reasonable care, diligence and prudence.

(b) A conservator shall have the following general duties, responsibilities, powers and authorities:

(1) To pay the reasonable charges for the support, maintenance, care, treatment, habilitation and education of the conservatee in a manner suitable to the conservatee's station in life and the value of the conservatee's estate; but nothing herein shall be construed to release a natural guardian from the ordinary obligations imposed by law for the support, maintenance, care, treatment, habilitation and education of the natural guardian's minor children;

(2) to pay all just and lawful debts of the conservatee and the reasonable charges for the support, maintenance, care, treatment, habilitation and education of the conservatee's spouse and minor children;

(3) to separately possess and manage all the assets of the estate of the conservatee and to collect all debts and assert all claims in favor of the conservatee, and with the approval of the court, to compromise the same. The conservator shall keep any property of the conservatee's estate insured against theft, other loss or damage, in reasonable amounts based upon the value of the estate, and for the benefit of the conservatee or the conservatee's estate;

(4) to prosecute and defend all actions in the name of the conservatee or as necessary to protect the interests of the conservatee;

(5) to sell assets of the conservatee's estate when the interests of the conservatee or conservatee's estate require the sale thereof;

(6) to possess and manage any ongoing business that the conservatee was managing and operating prior to the appointment of the conservator, and to divest the conservatee's estate of any interests therein, with the approval of the court, when the conservator deems it in the best interests of the conservatee or the conservatee's estate to do so; and

(7) to invest all funds in a manner which is reasonably prudent in view of the value of the conservatee's estate, except as may be currently needed for payment of any debts and charges as provided for herein. If the conservator shall expend or invest any funds from the conservatee's estate for the purchase of any policy of insurance or annuity contract, the conservator shall reserve to the conservatee the right to change the beneficiary thereof upon the termination of the conservatorship and of any guardianship which may have been established for the conservatee.

(c) A conservator shall not be obligated by virtue of the conservator's appointment to use the conservator's own financial resources for the support of the conservatee.

(d) A conservator shall not be personally liable:

(1) To a third person for the acts of the conservatee solely by virtue of the conservator's appointment, nor shall a conservator who exercises reasonable care in selecting a third person to provide any service to the conservatee's estate be liable for any loss to the conservatee's estate resulting from the wrongful conduct of that third person;

(2) on any mortgage note or by reason of the covenants in any instrument of conveyance duly executed by the conservator in the conservator's representative capacity as authorized by the court;

(3) on a contract properly entered into in a fiduciary capacity in the course of administration of the estate unless the conservator fails to reveal in the contract the representative capacity and to identify the estate;

(4) for obligations arising from ownership or control of property of the estate or for other acts or omissions occurring in the course of administration of the estate unless the conservator is personally at fault;

(5) for any environmental condition on or injury resulting from any environmental condition on land owned or acquired by the conservatee's estate; or



(6) for retaining, until maturity, any security or investment which is included in the conservatee's estate at the time of the establishment of the conservatorship, even though such security or investment may not be considered prudent or reasonable.

(e) A conservator shall be entitled to receive on behalf of the conservatee's estate any distributive share of the assets of an estate or trust, and shall have the same right as any other distributee or beneficiary to accept or demand distribution in kind, and may retain, until maturity, any security or investment so distributed to the conservator, even though such security or investment may not be considered prudent or reasonable.

(f) A conservator shall not have the power:

(1) To use the assets of a minor's estate to pay any obligation imposed by law upon the minor's natural guardian or natural guardians, including the support, maintenance, care, treatment, habilitation or education of the minor, except with the specific approval of the court granted upon a showing of extreme hardship;

(2) to sell, convey, lease or mortgage the conservatee's interest in the homestead of the conservatee, except with the approval of the court, and no conservator's deed or other instrument executed by virtue of the court's approval shall be valid unless the spouse, or if the spouse has been adjudicated a person with an impairment in need of a conservator, the conservator appointed for the spouse, shall join therein as one of the grantors thereof;

(3) to lease, except with the approval of the court, the possession or use of any real estate within the conservatee's estate for any period of greater than three years;

(4) to sell, convey or mortgage, except with approval of the court, any real estate within the conservatee's estate;

(5) to sell, convey, lease or mortgage, except with approval of the court, any oil, gas or other mineral interest within the conservatee's estate;

(6) to sell, convey, lease or mortgage, except with the approval of the court, the inchoate interest of the conservatee in any real estate the title to which is in the spouse of the conservatee, and no conservator's deed or other instrument executed by virtue of the court's approval shall be valid unless the spouse, or if the spouse has been adjudicated a person with an impairment in need of a conservator, the conservator appointed for the spouse, shall join therein as one of the grantors thereof;

(7) to extend, except with the approval of the court, an existing mortgage in favor of the conservatee or conservatee's estate, for a period of more than five years;

(8) to extend, except with the approval of the court, an existing mortgage which obligates the conservatee or the conservatee's estate, unless the extension agreement contains the same prepayment privileges, the rate of interest does not exceed the lowest rate in the mortgage extended, and the extension does not exceed five years; ~~or~~

(9) to make any gift on behalf of the conservatee, except with the approval of the court upon a finding that:

(A) The conservatee had either in the past as a habit made similar gifts or declared an intent to make such a gift, or under the circumstances, would have made such a gift or gifts;

(B) sufficient funds and assets will remain in the conservatee's estate after the making of such a gift to meet the expected needs and responsibilities of the conservatee; and

(C) any person or entity who would have received the property to be gifted had the conservatee died at the time of the gift, but who is not the person or entity receiving the gift, has either consented to or agreed with the giving of the gift, in writing, or has received notice of the proposal to make the gift and been given the opportunity to request a hearing thereon by the court to be held prior to the court's approving the gift; or

(10) *to access digital assets of the conservatee except if authorized by the court pursuant to section 14, and amendments thereto.*

(g) The conservator shall file with the court, within 30 days of the court's issuance of letters of conservatorship as provided for in K.S.A. 59-3069, and amendments thereto, an initial inventory of all of the property and assets of the conservatee's estate, including any sources of regular income to the estate.

(h) The conservator shall file with the court accountings and other reports concerning the status of the estate and the actions of the conservator as the court shall direct pursuant to K.S.A. 59-3083, and amendments thereto.

Sec. 24. K.S.A. 2016 Supp. 77-201 is hereby amended to read as follows: 77-201. In the construction of the statutes of this state the following rules shall be observed, unless the construction would be inconsistent with the manifest intent of the legislature or repugnant to the context of the statute:

*First.* The repeal of a statute does not revive a statute previously repealed, nor does the repeal affect any right which accrued, any duty imposed, any penalty incurred or any proceeding commenced, under or by virtue of the statute repealed. The provisions of any statute, so far as they are the same as those of any prior statute, shall be construed as a continuation of the prior provisions and not as a new enactment.

*Second.* Words and phrases shall be construed according to the context and the approved usage of the language, but technical words and phrases, and other words and phrases that have acquired a peculiar and appropriate meaning in law, shall be construed according to their peculiar and appropriate meanings.

*Third.* Words importing the singular number only may be extended to several persons or things, and words importing the plural number only

may be applied to one person or thing. Words importing the masculine gender only may be extended to females.

*Fourth.* Words giving a joint authority to three or more public officers or other persons shall be construed as given that authority to a majority of them, unless it is otherwise expressed in the act giving the authority.

*Fifth.* “Highway” and “road” include public bridges and may be construed to be equivalent to “county way,” “county road,” “common road,” “state road” and “territorial road.”

*Sixth.* “Incompetent person” includes disabled persons and incapacitated persons as defined herein.

*Seventh.* “Issue,” as applied to the descent of estates, includes all the lawful lineal descendants of the ancestor.

*Eighth.* “Land,” “real estate” and “real property” include lands, tenements and hereditaments, and all rights to them and interest in them, equitable as well as legal.

*Ninth.* “Personal property” includes money, goods, chattels, evidences of debt and things in action, *and digital assets as defined in the revised uniform fiduciary access to digital assets act, sections 1 through 19, and amendments thereto.*

*Tenth.* “Property” includes personal and real property.

*Eleventh.* “Month” means a calendar month, unless otherwise expressed. “Year” alone, and also the abbreviation “A.D.,” is equivalent to the expression “year of our Lord.”

*Twelfth.* “Oath” includes an affirmation in all cases where an affirmation may be substituted for an oath, and in similar cases “swear” includes affirm.

*Thirteenth.* “Person” may be extended to bodies politic and corporate.

*Fourteenth.* If the seal of a court or public office or officer is required by law to be affixed to any paper, “seal” includes an impression of the seal upon the paper alone, as well as upon wax or a wafer affixed to the paper. “Seal” also includes both a rubber stamp seal used with permanent ink and the word “seal” printed on court documents produced by computer systems, so that the seal may be legibly reproduced by photographic process.

*Fifteenth.* “State,” when applied to the different parts of the United States, includes the District of Columbia and the territories. “United States” may include that district and those territories.

*Sixteenth.* “Town” may mean a civil township, unless a different meaning is plainly intended.

*Seventeenth.* “Will” includes codicils.

*Eighteenth.* “Written” and “in writing” may include printing, engraving, lithography and any other mode of representing words and letters, excepting those cases where the written signature or the mark of any person is required by law.

*Nineteenth.* “Sheriff” may be extended to any person performing the duties of the sheriff, either generally or in special cases.

*Twentieth.* “Deed” is applied to an instrument conveying lands but does not imply a sealed instrument. “Bond” and “indenture” do not necessarily imply a seal but in other respects mean the same kind of instruments as above. “Undertaking” means a promise or security in any form where required by law.

*Twenty-first.* “Executor” includes an administrator where the subject matter applies to an administrator.

*Twenty-second.* Roman numerals and Arabic figures are to be taken as a part of the English language.

*Twenty-third.* “Residence” means the place which is adopted by a person as the person’s place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person’s residence.

*Twenty-fourth.* “Usual place of residence” and “usual place of abode,” when applied to the service of any process or notice, means the place usually occupied by a person. If a person has no family, or does not have family with the person, the person’s office or place of business or, if the person has no place of business, the room or place where the person usually sleeps shall be construed to be the person’s place of residence or abode.

*Twenty-fifth.* “Householder” means a person who is 18 or more years of age and who owns or occupies a house as a place of residence and not as a boarder or lodger.

*Twenty-sixth.* “General election” refers to the election required to be held on the Tuesday following the first Monday in November of each even-numbered year.

*Twenty-seventh.* “Under legal disability” includes persons who are within the period of minority, or who are incapacitated, incompetent or imprisoned.

*Twenty-eighth.* When a person is required to be disinterested or indifferent in acting on any question or matter affecting other parties, relationship within the degree of second cousin, inclusive, shall disqualify the person from acting, except by consent of parties.

*Twenty-ninth.* “Head of a family” shall include any person who has charge of children, relatives or others living with the person.

*Thirtieth.* “Mentally ill person” means a mentally ill person as defined in K.S.A. 59-2946, and amendments thereto.

*Thirty-first.* “Incapacitated person” means an individual whose ability to receive and evaluate relevant information, or to effectively communicate decisions, or both, even with the use of assistive technologies or other supports, is impaired to the degree that the person lacks the capacity to manage the person’s estate, or to meet essential needs for the person’s

physical health, safety or welfare, as defined in K.S.A. 59-3051, and amendments thereto, whether or not a guardian or a conservator has been appointed for that person.

*Thirty-second.* “Guardian” means an individual or a nonprofit corporation certified in accordance with K.S.A. 59-3070, and amendments thereto, which has been appointed by a court to act on behalf of a ward and possessed of some or all of the powers and duties set out in K.S.A. 59-3075, and amendments thereto. “Guardian” does not mean natural guardian unless specified.

*Thirty-third.* “Natural guardian” means both the biological or adoptive mother and father of a minor if neither parent has been found to be an adult with an impairment in need of a guardian or has had parental rights terminated by a court of competent jurisdiction. If either parent of a minor is deceased, or has been found to be an adult with an impairment in need of a guardian, as provided for in K.S.A. 59-3050 through 59-3095, and amendments thereto, or has had parental rights terminated by a court of competent jurisdiction, then the other parent shall be the natural guardian, unless also deceased, or found to be an adult with an impairment in need of a guardian, or has had parental rights terminated by a court of competent jurisdiction, in which case no person shall qualify as the natural guardian.

*Thirty-fourth.* “Conservator” means an individual or corporation appointed by the court to act on behalf of a conservatee and possessed of some or all of the powers and duties set out in K.S.A. 59-3078, and amendments thereto.

*Thirty-fifth.* “Minor” means any person defined by K.S.A. 38-101, and amendments thereto, as being within the period of minority.

*Thirty-sixth.* “Proposed ward” means a person for whom a petition for the appointment of a guardian pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, has been filed.

*Thirty-seventh.* “Proposed conservatee” means a person for whom a petition for the appointment of a conservator pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, has been filed.

*Thirty-eighth.* “Ward” means a person who has a guardian.

*Thirty-ninth.* “Conservatee” means a person who has a conservator.

*Fortieth.* “Manufactured home” means a structure which:

(1) Is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.

*Forty-first.* “Mobile home” means a structure which:

(1) Is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) is not subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.

*Forty-second.* “Disabled person” includes incapacitated persons and incompetent persons as defined herein.

Sec. 25. K.S.A. 58a-816 and 59-3078 and K.S.A. 2016 Supp. 58-654, 59-3075 and 77-201 are hereby repealed.

Sec. 26. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 5, 2017.

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## CHAPTER 20

### SENATE BILL No. 100

AN ACT concerning the nursing service scholarship program; scholarships for mental health nurses; amending K.S.A. 74-3292, 74-3293, 74-3294 and 74-3297 and repealing the existing sections.

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

Section 1. K.S.A. 74-3292 is hereby amended to read as follows: 74-3292. As used in this act:

(a) “Committee” means the nursing service scholarship review committee established under K.S.A. 74-3299, and amendments thereto.

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

(c) “*Mental health or treatment facility*” means:

(1) *Any private treatment facility as such term is defined in K.S.A. 59-29b46, and amendments thereto;*

(2) *any public treatment facility as such term is defined in K.S.A. 59-29b46, and amendments thereto;*

(3) *any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto, and licensed pursuant to K.S.A. 2016 Supp. 39-2001 et seq., and amendments thereto;*

(4) *any mental health clinic organized pursuant to the provisions of*

K.S.A. 65-211 through 65-215, and amendments thereto, and licensed pursuant to K.S.A. 2016 Supp. 39-2001 et seq., and amendments thereto;

(5) *any psychiatric hospital, psychiatric residential treatment facility or residential care facility as such terms are defined in K.S.A. 2016 Supp. 39-2002, and amendments thereto;*

(6) *any hospital as defined in K.S.A. 65-425, and amendments thereto, provided: (A) The hospital has a psychiatric unit; and (B) the scholarship recipient is required to fulfill the nursing service scholarship's employment obligations as an employee in the psychiatric unit of the hospital; or*

(7) *Osawatomie state hospital, Rainbow mental health facility, Larned state hospital, Parsons state hospital and training center or the Kansas neurological institute.*

(d) "Rural area" means any county of this state other than Douglas, Johnson, Sedgwick, Shawnee and Wyandotte counties.

~~(d)~~(e) "School of nursing" means a school within the state of Kansas which is approved by the state board of nursing to grant an associate degree or a baccalaureate degree in professional nursing or a certificate of completion in practical nursing *and is:*

(1) *Under the control and supervision of the state board of regents;*

(2) *a municipal university; or*

(3) *a not-for-profit independent institution of higher education that has its main campus or principal place of operation in Kansas, maintains open enrollment as such term is defined in K.S.A. 74-32,120, and amendments thereto, and is operated independently and not controlled or administered by the state or any agency or subdivision thereof.*

~~(e)~~(f) "Sponsor" means any adult care home licensed under the adult care home licensure act, any medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, ~~any psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto,~~ any home health agency licensed under K.S.A. 65-5101 et seq., and amendments thereto, any local health department as defined in K.S.A. 65-241, and amendments thereto, *any mental health or treatment facility* and any state agency which employs licensed practical nurses or licensed professional nurses.

Sec. 2. K.S.A. 74-3293 is hereby amended to read as follows: 74-3293.

(a) There is hereby established the nursing service scholarship program. A scholarship may be awarded under the nursing service scholarship program to any qualified nursing student enrolled in or admitted to a school of nursing in a course of instruction leading to licensure as a licensed professional nurse or licensed practical nurse. *A nursing student shall not be required to be a resident of Kansas to qualify for a scholarship under the nursing service scholarship program.* The number of new scholarships awarded under the nursing service scholarship program in each year shall not exceed 250. Of this number, except as otherwise provided in this section, 100 scholarships shall be awarded to nursing students whose

sponsors are located in rural areas and who are enrolled in a course of instruction leading to licensure as a registered professional nurse, 50 scholarships shall be awarded to nursing students enrolled in a course of instruction leading to licensure as a licensed practical nurse and the remaining 100 scholarships shall be awarded to any nursing students who have a sponsor and who are enrolled in a course of instruction leading to licensure as a registered professional nurse. If all scholarships authorized to be awarded under this section to nursing students whose sponsors are located in rural areas have not been awarded by a date established by the state board of regents, the scholarships which have not been awarded by that date may be awarded to nursing students who have a sponsor and who are otherwise qualified to be awarded a scholarship under the nursing service scholarship program. The determination of the individuals qualified for such scholarships shall be made by the executive officer after seeking advice from the committee. Within each scholarship category prescribed by this subsection, scholarships shall be awarded on a priority basis to qualified applicants: (1) *Whose sponsor is a mental health or treatment facility; and* (2) who have the greatest financial need for such scholarships. To the extent practicable and consistent with the other provisions of this section, consideration shall be given to minority applicants.

(b) Scholarships awarded under the nursing service scholarship program shall be awarded for the length of the course of instruction leading to licensure as a licensed professional nurse or licensure as a licensed practical nurse which the student is enrolled in or admitted to unless otherwise terminated before the expiration of such period of time. Such scholarships shall provide to a nursing student:

(1) If the nursing student is enrolled in a school of nursing operated by a state educational institution, an amount not to exceed 70% of the *in-state tuition* cost of attendance for an academic year at the school of nursing in which the nursing student is enrolled; or

(2) if the nursing student is enrolled in a school of nursing not operated by a state educational institution, the lesser of: (A) An amount not to exceed 70% of the *in-state tuition* cost of attendance for a year at the school of nursing in which the nursing student is enrolled; or (B) an amount not to exceed 70% of the average amount of the *in-state tuition* cost of attendance for a year at the schools of nursing operated by the state educational institutions.

(c) The amount of each scholarship shall be established annually by the executive officer and shall be financed equally by the sponsor of the nursing student and by the state of Kansas except that if:

(1) The sponsor is located in a rural area or is a health care facility which has less than 100 beds, *and is not a mental health or treatment facility pursuant to K.S.A. 74-3292(c)(1), (c)(5) or (c)(6), and amendments thereto*, the total amount of the scholarship financed by such sponsor shall



not exceed \$1,000 and the balance of such amount shall be paid by the state of Kansas; or

(2) *the sponsor is a mental health or treatment facility pursuant to K.S.A. 74-3292(c)(2), (c)(3), (c)(4) or (c)(7), and amendments thereto, the amount of the scholarship shall be paid by the state and such sponsor shall not finance any amount of the scholarship.*

Sec. 3. K.S.A. 74-3294 is hereby amended to read as follows: 74-3294.

(a) An applicant for a scholarship under the nursing service scholarship program shall provide to the executive officer, on forms supplied by the executive officer, the following information:

- (1) The name and address of the applicant;
- (2) the name and address of the school of nursing in which the applicant is enrolled or to which the applicant has been admitted;
- (3) the name and address of the sponsor of the applicant and a verified copy of the agreement entered into by the applicant and the sponsor in accordance with the provisions of the nursing service scholarship program; and
- (4) any additional information which may be required by the executive officer.

(b) As a condition to awarding a scholarship under the nursing service scholarship program, the executive officer and the applicant for a scholarship shall enter into an agreement which shall require that the scholarship recipient:

- (1) Complete the required course of instruction and attain licensure with the Kansas state board of nursing as a licensed professional nurse or a licensed practical nurse;
- (2) engage in the full-time practice of nursing, or the equivalent to full-time practice, in the employment of the sponsor in accordance with the agreement entered into by the scholarship recipient and the sponsor and continue such full-time practice, or the equivalent to full-time practice, for the total amount of time required under the agreement, which shall be for a period of not less than the length of the course of instruction for which scholarship assistance was provided, or engage in the part-time practice of nursing in the employment of the sponsor in accordance with the agreement entered into by the scholarship recipient and the sponsor and continue such part-time practice for the total amount of time required under the agreement, which shall be for a period of time that is equivalent to full time, as determined by the state board of regents, multiplied by the length of the course of instruction for which scholarship assistance was provided;
- (3) commence the full-time practice of nursing, or the equivalent to full-time practice, or the part-time practice of nursing, within six months after registration in accordance with the agreement entered into by the scholarship recipient and the sponsor, continue such practice for the total

amount of time required under the agreement, and comply with such other terms and conditions as may be specified by such agreement;

(4) maintain records and make reports to the executive officer as may be required by the executive officer to document the satisfaction of the obligations under the nursing service scholarship program and under agreements entered into with the sponsor; and

(5) upon failure to satisfy an agreement to engage in the full-time practice of nursing, or the equivalent to full-time practice, or the part-time practice of nursing, for the required period of time under any such agreement, repay to the state and to the sponsor amounts as provided in K.S.A. 74-3295, and amendments thereto.

(c) Upon the awarding of a scholarship under the nursing service scholarship program, the sponsor shall pay to the executive officer the amount of such scholarship to be financed by the sponsor, *if any*. Each such amount shall be deposited in the nursing service scholarship program fund in accordance with K.S.A. 74-3298, and amendments thereto.

(d) The sponsorship by a scholarship recipient may be transferred from one sponsor to another upon the agreement of the original sponsor, the scholarship recipient and the sponsor to which the sponsorship is to be transferred. The terms, conditions and obligations of the transferred agreement shall be substantially similar to the terms, conditions and obligations of the original agreement. No sponsorship shall be transferred unless the agreement transferring such sponsorship provides for service in a rural area *or in a mental health or treatment facility* and is approved by the executive officer as consistent with the provisions of the nursing service scholarship program and as consistent with any rules and regulations relating thereto adopted by the state board of regents in accordance with the provisions of K.S.A. 74-3297, and amendments thereto.

Sec. 4. K.S.A. 74-3297 is hereby amended to read as follows: 74-3297.

(a) The state board of regents, after consultation with the committee, may adopt rules and regulations establishing minimum terms, conditions and obligations which shall be incorporated into the provisions of any agreement entered into between a sponsor and the recipient of a scholarship under the nursing service scholarship program. The terms, conditions and obligations shall be consistent with the provisions of law relating to the nursing service scholarship program. The terms, conditions and obligations so established shall include, but not be limited to, the terms of eligibility for financial assistance under the nursing service scholarship program, the amount of financial assistance to be offered, the length of employment with the sponsor required as a condition to the receipt of such financial assistance, the circumstances under which the employment obligation may be discharged or forgiven, the amount of money required to be repaid because of failure to satisfy the obligations under an agreement and the method of repayment and such other additional provisions

as may be necessary to carry out the provisions of the nursing service scholarship program. The state board of regents, after consultation with the committee, shall adopt rules and regulations as necessary to administer the nursing service scholarship program.

(b) *The state board of regents shall provide an annual written report on the nursing service scholarship program to the senate and house committees on education.*

Sec. 5. K.S.A. 74-3292, 74-3293, 74-3294 and 74-3297 are hereby repealed.

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

Approved April 5, 2017.



CHAPTER 21

HOUSE BILL No. 2217\*

AN ACT concerning emergency opioid antagonists; relating to standards governing the use and administration thereof; education requirements; civil and criminal liability.

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

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

(1) “Bystander” means a family member, friend, caregiver or other person in a position to assist a person who the family member, friend, caregiver or other person believes, in good faith, to be experiencing an opioid overdose.

(2) “Emergency opioid antagonist” means any drug that inhibits the effects of opioids and that is approved by the United States food and drug administration for the treatment of an opioid overdose.

(3) “First responder” includes any attendant, as defined by K.S.A. 65-6112, and amendments thereto, any law enforcement officer, as defined by K.S.A. 22-2202, and amendments thereto, and any actual member of any organized fire department, whether regular or volunteer.

(4) “First responder agency” includes, but is not limited to, any law enforcement agency, fire department or criminal forensic laboratory of any city, county or the state of Kansas.

(5) “Opioid antagonist protocol” means the protocol established by the state board of pharmacy pursuant to subsection (b).

(6) “Opioid overdose” means an acute condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania or death, resulting from the consumption or use of an opioid or another substance with which an opioid was combined, or that a layperson would reasonably believe to be resulting

from the consumption or use of an opioid or another substance with which an opioid was combined, and for which medical assistance is required.

(7) “Patient” means a person believed to be at risk of experiencing an opioid overdose.

(8) “School nurse” means a professional nurse licensed by the board of nursing and employed by a school district to perform nursing procedures in a school setting.

(9) “Healthcare provider” means a physician licensed to practice medicine and surgery by the state board of healing arts, a licensed dentist, a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto, or any person authorized by law to prescribe medication.

(b) The state board of pharmacy shall issue a statewide opioid antagonist protocol that establishes requirements for a licensed pharmacist to dispense emergency opioid antagonists to a person pursuant to this section. The opioid antagonist protocol shall include procedures to ensure accurate recordkeeping and education of the person to whom the emergency opioid antagonist is furnished, including, but not limited to: Opioid overdose prevention, recognition and response; safe administration of an emergency opioid antagonist; potential side effects or adverse events that may occur as a result of administering an emergency opioid antagonist; a requirement that the administering person immediately contact emergency medical services for a patient; and the availability of drug treatment programs.

(c) A pharmacist may furnish an emergency opioid antagonist to a patient or bystander subject to the requirements of this section, the pharmacy act of the state of Kansas and any rules and regulations adopted by the state board of pharmacy thereunder.

(d) A pharmacist furnishing an emergency opioid antagonist pursuant to this section may not permit the person to whom the emergency opioid antagonist is furnished to waive any consultation required by this section or any rules and regulations adopted thereunder.

(e) Any first responder, scientist or technician operating under a first responder agency or school nurse is authorized to possess, store and administer emergency opioid antagonists as clinically indicated, provided that all personnel with access to emergency opioid antagonists are trained, at a minimum, on the following:

- (1) Techniques to recognize signs of an opioid overdose;
- (2) standards and procedures to store and administer an emergency opioid antagonist;
- (3) emergency follow-up procedures, including the requirement to summon emergency ambulance services either immediately before or immediately after administering an emergency opioid antagonist to a patient; and
- (4) inventory requirements and reporting any administration of an emergency opioid antagonist to a healthcare provider.

(f) (1) Any first responder agency electing to provide an emergency opioid antagonist to its employees or volunteers for the purpose of administering the emergency opioid antagonist shall procure the services of a physician to serve as physician medical director for the first responder agency's emergency opioid antagonist program.

(2) The first responder agency shall utilize the physician medical director or a licensed pharmacist for the purposes of:

(A) Obtaining a supply of emergency opioid antagonists;

(B) receiving assistance developing necessary policies and procedures that comply with this section and any rules and regulations adopted thereunder;

(C) training personnel; and

(D) coordinating agency activities with local emergency ambulance services and medical directors to provide quality assurance activities.

(g) (1) Any healthcare provider or pharmacist who, in good faith and with reasonable care, prescribes or dispenses an emergency opioid antagonist pursuant to this section shall not, by an act or omission, be subject to civil liability, criminal prosecution or any disciplinary or other adverse action by a professional licensure entity arising from the healthcare provider or pharmacist prescribing or dispensing the emergency opioid antagonist.

(2) Any patient, bystander, or school nurse, or a first responder, scientist or technician operating under a first responder agency, who, in good faith and with reasonable care, receives and administers an emergency opioid antagonist pursuant to this section to a person experiencing a suspected opioid overdose shall not, by an act or omission, be subject to civil liability or criminal prosecution, unless personal injury results from the gross negligence or willful or wanton misconduct in the administration of the emergency opioid antagonist.

(3) Any first responder agency employing or contracting any person that, in good faith and with reasonable care, administers an emergency opioid antagonist pursuant to this section to a person experiencing a suspected opioid overdose shall not, by an act or omission, be subject to civil liability, criminal prosecution, any disciplinary or other adverse action by a professional licensure entity or any professional review.

(h) The state board of pharmacy shall adopt rules and regulations as may be necessary to implement the provisions of this section prior to January 1, 2018.

(i) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

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

## CHAPTER 22

## HOUSE BILL No. 2219\*

AN ACT relating to diabetes information reporting.

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

Section 1. (a) The secretary of health and environment shall identify goals and benchmarks and develop plans to reduce the incidence of diabetes in Kansas, improve diabetes care and control complications associated with diabetes.

(b) The secretary shall submit a report to the legislative coordinating council by January 10 of each even-numbered year on the following:

(1) The financial impact and reach diabetes is having on the department of health and environment, the state of Kansas and localities within the state, including the number of individuals with diabetes impacted or covered by programs administered by the secretary, the number of individuals with diabetes and family members impacted by prevention and diabetes control programs implemented by the department, if any, the financial toll or impact diabetes and its complications places on the department and the financial toll or impact diabetes and its complications places on the department in comparison to other chronic diseases and conditions;

(2) an assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease shall include documenting the amount and source for any funding directed to the department from the Kansas legislature for programs and activities aimed at reaching those with diabetes;

(3) a description of the level of coordination existing in the department, programmatic activities and messaging concerning managing, treating or preventing all forms of diabetes and its complications;

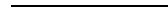
(4) the development or revision of detailed action plans for battling diabetes with a range of actionable items for consideration by the legislature, that shall identify proposed action steps to reduce the impact of diabetes, pre-diabetes and related diabetes complications and identify the expected benchmarks for controlling and preventing relevant forms of diabetes; and

(5) the development of a detailed budget blueprint identifying needs, costs and resources required to implement the plan identified in subsection (b)(4), which blueprint shall include a budget range for all options presented in such plan for consideration by the legislature.

(c) The requirements of this section shall be limited to the diabetes information, data, initiatives and programs within the department prior to the effective date of this act, unless there is unobligated funding for diabetes in the department that may be used for new research, data collection, reporting or other requirements of this section.

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

Approved April 7, 2017.



CHAPTER 23

HOUSE BILL No. 2312

AN ACT concerning agriculture; relating to administrative procedure; division of water resources; fertilizer; amending K.S.A. 2016 Supp. 2-1201b, 2-1201c, 2-1208a, 82a-737 and 82a-1901 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 82a-1902.

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

Section 1. K.S.A. 2016 Supp. 2-1201b is hereby amended to read as follows: 2-1201b. (a) It shall be deemed a violation of K.S.A. 2-1201 and 2-1201a, and amendments thereto, for any person to: (1) Sell or distribute in this state any custom blended fertilizer when such person does not hold a valid license as required by this act; or (2) fail to comply with the requirements of K.S.A. 2-1201a, and amendments thereto, and, except as otherwise provided, the provisions of K.S.A. 2-1208, and amendments thereto. Failure to comply with the provisions of ~~subsection (1)(a)~~ of K.S.A. 2-1208(1)(a), and amendments thereto, shall not be deemed a violation of this section. The penalties as provided in K.S.A. 2-1208, and amendments thereto, shall apply to persons as described in this section who fail to comply with the provisions of K.S.A. 2-1208, and amendments thereto.

(b) On and after July 1, 2003, any person or custom blender who violates any provision of article 12 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, or the rules and regulations adopted pursuant thereto, *after notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act*, may incur a civil penalty in an amount not more than \$5,000 per violation. In the case of a continuing violation, every day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law. *Any order issued by the secretary assessing a civil penalty* ~~assessed~~ pursuant to this subsection is subject to review in accordance with the Kansas judicial review act. The secretary shall remit any civil penalty collected pursuant to this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 2. K.S.A. 2016 Supp. 2-1201c is hereby amended to read as follows: 2-1201c. (a) Ammonium nitrate dealers shall register with the sec-

retary of agriculture. Registration shall be required for each business location selling ammonium nitrate. Each registration shall expire on December 31 following issuance unless the registration is renewed annually. A registration fee not to exceed \$25 shall accompany the application for registration for any ammonium nitrate dealer that is not registered as a custom blender, if the fee is fixed by the secretary in rules and regulations.

(b) Ammonium nitrate storage shall be secured to provide reasonable protection against vandalism, theft and unauthorized access.

(c) Ammonium nitrate dealers shall obtain the following regarding any sale of ammonium nitrate:

(1) Date of sale;

(2) quantity purchased;

(3) license number of the purchaser's valid state or federal driver's license or other picture identification card number deemed acceptable by the secretary in rules and regulations;

(4) the purchaser's name, current physical address and telephone number;

(5) if the ammonium nitrate is received to a person other than the purchaser, the name, current physical address, telephone number and license number of that person's valid state or federal driver's license or other picture identification card number deemed acceptable by the secretary in rules and regulations; and

(6) the physical address of the person to whom the ammonium nitrate is delivered if different than the physical address of the purchaser.

(d) Ammonium nitrate dealers shall maintain records of all information required to be obtained pursuant to subsection (c) for a minimum of three years. The records shall be subject to inspection upon request by the secretary of agriculture or the secretary's designee.

(e) Ammonium nitrate dealers may refuse to sell to any person attempting to purchase ammonium nitrate out of season, in unusual quantities or under suspect purchase patterns.

(f) In addition to any other penalties provided by law, each ammonium nitrate dealer registration shall be subject to denial, suspension or revocation ~~pending~~, *after notice and opportunity* for a hearing in accordance with the provisions of the Kansas administrative procedure act, for any violation of this act whether committed by the dealer or by the dealer's officers, agents or employees.

(g) The provisions of this section are part of and supplemental to article 12 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 3. K.S.A. 2016 Supp. 2-1208a is hereby amended to read as follows: 2-1208a. ~~(a)~~ If it shall appear to the secretary or an authorized representative of the secretary from examination or analysis of an official



sample of a commercial fertilizer that the commercial fertilizer is falsely labeled or fails to comply with the provisions of this act, the secretary shall ~~cause notice to be given to the person in possession of the commercial fertilizer and the registrant that a hearing in relation thereto will be held at a date and place named in such notice. Whereupon the secretary or a presiding officer from the office of administrative hearings shall hold a hearing in accordance with the provisions of the Kansas administrative procedure act.~~

~~(b) If it is established at the hearing to the satisfaction of the secretary or a presiding officer from the office of administrative hearings, that any commercial fertilizer has been registered in error, or has been sold in violation of any of the provisions of this act, or that any provision of this act has been violated, the secretary shall have power to cancel the registration of such brand or brands of commercial fertilizer, and after notice and opportunity for a hearing in accordance with the Kansas administrative procedure act. The secretary may report the facts, the results of any analysis or other examination and the record of any proceedings to the proper prosecuting attorney and furnish that officer with an official report of the record of such hearing and a copy of the result of any analysis or other examination which may have a bearing on the case. Prosecution may be instituted under the provisions of this act in the district court of the county where the offense is alleged to have been committed, upon complaint of the secretary or an authorized representative of the secretary or any citizen of this state, or by any county attorney and shall be prosecuted by the county attorney in the name of the state of Kansas.~~

Sec. 4. K.S.A. 2016 Supp. 82a-737 is hereby amended to read as follows: 82a-737. (a) As used in this section:

(1) “Chief engineer” means the chief engineer of the division of water resources of the department of agriculture.

(2) “Secretary” means the secretary of agriculture.

(b) Any person who commits any of the following may incur a civil penalty as provided by this section:

(1) Any violation of the Kansas water appropriation act~~(, K.S.A. 82a-701 et seq., and amendments thereto)~~, or any rule and regulation adopted thereunder;

(2) any violation of an order issued pursuant to K.S.A. 82a-1038, and amendments thereto, relating to an intensive groundwater use control area; or

(3) any violation of a term, condition or limitation imposed by the chief engineer as authorized by law, including, but not limited to: (A) Diversion of water from an unauthorized point of diversion; (B) failure to limit the use of water to the authorized place of use; (C) failure to submit or comply with the terms of conservation plans as required pursuant to K.S.A. 82a-733, and amendments thereto; (D) failure to comply

with the maximum annual quantity or rate of diversion authorized; (E) failure to properly install, maintain or assure the accuracy of acceptable water measurement devices; (F) failure to comply with orders related to minimum desirable stream flow, unlawful diversion, impairment of senior water rights or waste of water; or (G) failure to limit the use of water to an authorized type of use.

(c) The amount of the civil penalty provided for by this section shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law.

(d) The chief engineer or the chief engineer's duly authorized agent, upon a finding that a person has committed a violation specified in subsection (b), may order the modification or suspension of the person's water right or use of water, in addition to any other penalty provided by law.

(e) No civil penalty or suspension or modification of a water right or use of water shall be imposed pursuant to this section except on the written order of the chief engineer or duly authorized agent of the chief engineer. Such order shall state the nature of the violation, the factual basis for the finding, the penalty to be imposed and the appropriate procedure for appeal of the order to the chief engineer or the secretary, as established by K.S.A. 2016 Supp. 82a-1901, and amendments thereto. ~~Upon review, the order shall be affirmed, reversed or modified and the reasons therefor shall be specified.~~

(f) Any person aggrieved by an order of the chief engineer, or the chief engineer's duly authorized agent, pursuant to this section may request *a hearing or review* ~~by the secretary~~ as provided by K.S.A. 2016 Supp. 82a-1901, and amendments thereto, and, upon exhaustion of administrative remedies, may appeal to the district court in the manner provided by the Kansas judicial review act.

(g) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 5. K.S.A. 2016 Supp. 82a-1901 is hereby amended to read as follows: 82a-1901. (a) Orders of the chief engineer of the division of water resources of the department of agriculture pursuant to K.S.A. ~~42-703, 42-722, 42-722a, 82a-708b; and 82a-711, 82a-718 and amendments thereto, and K.S.A. 2016 Supp. 82a-737 and 82a-770, and 82a-1038 and K.S.A. 2016 Supp. 82a-1041, and amendments thereto,~~ and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, shall be subject, *upon timely request within 15 days of service of the order pursuant to K.S.A. 77-531, and amendments thereto, or the chief engineer's failure to act timely pursuant to K.S.A. 82a-714, and amendments thereto,* ~~to review an administrative hearing by a hearing officer desig-~~

*nated according to subsection (b) and otherwise in accordance with the provisions of the Kansas administrative procedure act.*

~~Such review shall be conducted by the secretary of agriculture or a presiding officer from the office of administrative hearings within the department of administration. The secretary of agriculture shall not have the authority otherwise to designate a presiding officer to conduct such review unless at the party's request pursuant to K.S.A. 75-37,121, and amendments thereto.~~

~~(b) The order of the secretary of agriculture or the administrative law judge or presiding officer upon review pursuant to subsection (a) shall be a final order under the Kansas administrative procedure act. Such order shall not be subject to reconsideration pursuant to K.S.A. 77-529, and amendments thereto, and shall be subject to review in accordance with the Kansas judicial review act. The chief engineer shall provide an opportunity for a hearing to be conducted before the chief engineer or before a hearing officer appointed by the chief engineer. Such hearing officer shall not be a current employee of the department of agriculture, shall be licensed as an attorney in this state and shall be knowledgeable in the areas of water policies and administrative procedure. Such hearing officer, as directed by the chief engineer, shall either provide recommendations to the chief engineer for issuance of an initial order or issue an initial order.~~

~~(c) Orders of the chief engineer of the division of water resources of the department of agriculture issued pursuant to K.S.A. 42-703, 42-722, 42-722a, 82a-708b, 82a-711 and 82a-718, and amendments thereto, and K.S.A. 2016 Supp. 82a-737, 82a-770, 82a-1038 and 82a-1041, and amendments thereto, regardless of whether the order is deemed an initial order pursuant to K.S.A. 77-526, and amendments thereto, and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, and any order issued pursuant to subsection (b), shall be subject, upon timely request within 30 days of service of the order pursuant to K.S.A. 77-531, and amendments thereto, or the chief engineer's failure to act timely pursuant to K.S.A. 82a-714, and amendments thereto, to review by the secretary of agriculture pursuant to K.S.A. 77-527, and amendments thereto, and otherwise in accordance with the provisions of the Kansas administrative procedure act.~~

~~(d) Any final order of the department of agriculture issued pursuant to this section shall not be subject to reconsideration pursuant to K.S.A. 77-529, and amendments thereto.~~

~~(e) This act shall not affect any administrative proceeding pending before the chief engineer of the division of water resources of the department of agriculture, the secretary of agriculture or any administrative hearing officer on July 1, 1999 2017, and such matter shall proceed as though no change in the law had been made with regard to such proceeding.~~

Sec. 6. K.S.A. 2016 Supp. 2-1201b, 2-1201c, 2-1208a, 82a-737, 82a-1901 and 82a-1902 are hereby repealed.

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

Approved April 7, 2017.

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## CHAPTER 24

### HOUSE BILL No. 2110

AN ACT concerning financial institutions; relating to trust companies; establishment of non-resident entities; requirements; amending K.S.A. 2016 Supp. 9-2111 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 9-2111 is hereby amended to read as follows: 9-2111. (a) Except as provided in K.S.A. 9-2107, and amendments thereto, no trust company, trust department of a bank, corporation or other business entity, the home office of which is located outside the state of Kansas, shall establish or operate a trust facility within the state of Kansas, unless the laws of the state where the home office of the non-resident trust company, trust department of a bank, corporation or other business entity is located ~~reciprocally~~ authorize a Kansas chartered trust company, trust department of a bank, corporation or other business entity to establish or operate a trust facility within that state.

(b) Before any nonresident trust company, trust department of a bank, corporation or other business entity establishes a trust facility in Kansas, a copy of the application submitted to the home state, and proof that the home state ~~has reciprocity with Kansas,~~ *authorizes a Kansas chartered trust company, trust department of a bank, corporation or other business entity to establish or operate a trust facility within that state,* must be filed by the applicant with the commissioner.

(c) No Kansas trust company shall establish an out-of-state trust facility until an application has been filed with the commissioner and approval has been received. An application filed pursuant to this section shall be subject to the provisions in K.S.A. 9-2108, and amendments thereto.

(d) No Kansas bank with a trust department shall establish an out-of-state trust facility until an application has been filed with the commissioner and approval has been received. An application filed pursuant to this section shall be subject to the provisions in K.S.A. 9-1111, and amendments thereto.

(e) As used in this section, “trust facility” means any office, agency, desk or other place of business at which trust business is conducted.

(f) Any Kansas trust company or Kansas bank making application to the commissioner pursuant to subsection (c) or (d) shall pay to the commissioner a fee to be established pursuant to K.S.A. 2016 Supp. 9-1726, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

Sec. 2. K.S.A. 2016 Supp. 9-2111 is hereby repealed.

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

Approved April 7, 2017.

Published in the *Kansas Register* April 20, 2017.

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## CHAPTER 25

### HOUSE BILL No. 2191

AN ACT concerning the Kansas department of wildlife, parks and tourism; relating to licenses, permits, stamps and other issues of the department; citations; amending K.S.A. 2016 Supp. 32-1001, 32-1041 and 32-1049 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 32-1001 is hereby amended to read as follows: 32-1001. (a) It is unlawful for any person to:

(1) Participate or engage in any activity for which such person is required to have obtained a license, permit, stamp or other issue of the Kansas department under the wildlife, parks and tourism laws of this state or under rules and regulations of the secretary unless such person has obtained a currently valid such license, permit, stamp or other issue issued to such person;

(2) fail to carry in such person's possession a currently valid license, permit, stamp or other issue of the department, issued to such person, while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife, parks and tourism laws of this state or under rules and regulations of the secretary;

(3) refuse to allow examination of any license, permit, stamp or other

issue of the department while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife, parks and tourism laws of this state or under rules and regulations of the secretary, upon demand by any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary;

(4) while participating or engaging in fishing or hunting: (A) Fail to carry in such person's possession a card or other evidence ~~which~~ *that* such person is required to carry pursuant to K.S.A. 32-980, and amendments thereto; or (B) refuse to allow inspection of such card or other evidence upon demand of any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary; or

(5) make any false representation to secure any license, permit, stamp or other issue of the department, or duplicate thereof, or to make any alteration in any such license, permit, stamp or other issue.

(b) No person charged with violating subsection (a)(1) for failure to obtain a vehicle or camping permit for use of any state park, or any portion thereof or facility therein, or any other area or facility for which a vehicle or camping permit is required pursuant to rules and regulations of the secretary shall be convicted thereof unless such person refuses to purchase such permit after receiving a permit violation notice, which notice shall require the procurement of: (1) The proper daily permit or permits and payment within 24 hours of a late payment fee of \$15; or (2) an annual vehicle or camping permit, as the case may be, if such permit has been established by rule and regulation and adopted by the secretary.

(c) (1) In any prosecution charging a violation of subsection (a)(1) for failure to obtain a permit required by K.S.A. 32-901, and amendments thereto, proof that the particular vehicle described in the complaint was in violation, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the time when and place where the violation occurred.

(2) Proof of a written lease of, or rental agreement for, a particular vehicle described in the complaint, on the date and at the time of the violation, which lease or rental agreement includes the name and address of the person to whom the vehicle was leased or rented at the time of the violation, shall rebut the prima facie evidence that the registered owner was the person who parked or placed the vehicle at the time when and place where the violation occurred.

(d) No person who is a resident of this state and charged with violating subsection (a)(1) or (a)(2) shall be convicted thereof if such person produces in court or the office of the arresting officer the appropriate license, permit, stamp or other issue of the department, lawfully issued

to such person and valid at the time of such person's ~~arrest~~ *alleged violation*.

(e) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

Sec. 2. K.S.A. 2016 Supp. 32-1041 is hereby amended to read as follows: 32-1041. (a) (1) Upon the first conviction of violating any provision of the wildlife, parks and tourism laws of this state or rules and regulations of the secretary, and in addition to any authorized sentence imposed by the convicting court, such court may: (A) Order such person to refrain from engaging in any activity, legal or illegal, the activity for which convicted for up to one year from the date of conviction; and (B) order the forfeiture of any license, permit, stamp or other issue of the department, other than a lifetime license, which is held by the convicted person and pertains to the activity for which the person was convicted for up to one year from the date of conviction.

(2) Upon any subsequent conviction of violating any provision of the wildlife, parks and tourism laws of this state, or rules and regulations adopted thereunder, and in addition to any authorized sentence imposed by the convicting court, such court shall: (A) Order such person to refrain from any activity, legal or illegal, related to the activity for which convicted for one year from the date of conviction; and (B) order the forfeiture of any license, permit, stamp or other issue of the department, other than a lifetime license, which is held by the convicted person and pertains to the activity for which the person was convicted for one year from the date of conviction.

(b) (1) Upon the first conviction of violating any provision of the wildlife, parks and tourism laws of this state, or rules and regulations adopted thereunder, by a person who has been issued a lifetime hunting or fishing license or a combination thereof, and in addition to any authorized sentence imposed by the convicting court, such court may order the suspension of such license for up to one year from the date of conviction.

(2) Upon any subsequent conviction of violating any provision of the wildlife, parks and tourism laws of this state, or rules and regulations adopted thereunder, by a person who has been issued a lifetime hunting or fishing license or a combination thereof, and in addition to any authorized sentence imposed by the convicting court, such court shall order the suspension of such license for one year from the date of conviction.

(c) If a convicted person has been issued a combination hunting and fishing license or a combination lifetime license, only that portion of such license which pertains to the activity for which such person is convicted shall be subject to forfeiture or suspension pursuant to this section. In such case, the order of conviction shall indicate that part of the license

which is forfeited or suspended, and such order shall become a temporary license under which the offender may either hunt or fish as the order indicates.

(d) Whenever a judge orders forfeiture or suspension of a license, permit, stamp or other issue of the department pursuant to this section, such *physical* license, permit, stamp or other issue shall be surrendered to the court and the judge shall forward it, along with a copy of the conviction order, to the department.

(e) A person whose license, permit, stamp or other issue of the department has been forfeited or suspended pursuant to subsection (a)(1) or (b)(1) shall not be eligible to purchase another such issue within 30 days of the conviction. A person whose license, permit, stamp or other issue of the department has been forfeited or suspended pursuant to subsection (a)(2) or (b)(2) shall not be eligible to purchase another such issue within one year from the date of conviction.

(f) A judge, upon a finding of multiple, repeated or otherwise aggravated violations by a defendant, may order forfeiture or suspension of the defendant's license, permit, stamp or other issue of the department for a period longer than otherwise provided by this section and may order the defendant to refrain from any activity, legal or illegal, related to the activity for which convicted for a period longer than otherwise provided by this section.

Sec. 3. K.S.A. 2016 Supp. 32-1049 is hereby amended to read as follows: 32-1049. (a) Whenever a person is charged for any violation of any of the wildlife, parks and tourism laws of this state or the provisions of article 11 of chapter 32 of the Kansas Statutes Annotated, *and amendments thereto*, or rules and regulations adopted thereunder, punishable as a misdemeanor and is not immediately taken before a judge of the district court as required or permitted pursuant to K.S.A. 32-1048 and ~~32-1178~~ 32-1179, and amendments thereto, the officer ~~shall~~ *may* prepare a written citation containing a notice to appear in court, the name and address of the person, the offense charged, the time and place when and where the person shall appear in court and such other pertinent information as may be necessary.

(b) The time specified in the citation must be at least five days after the alleged violation unless the person charged with the violation shall demand an earlier hearing.

(c) The place specified in the citation must be before a judge of the district court within the county in which the offense is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the alleged violation occurred.

(d) The person charged with the violation may give a written promise to appear in court by signing at least one copy of the written citation



prepared by the officer, in which event the officer shall deliver a copy of the citation to the person, and thereupon the officer shall not take the person into physical custody for the violation.

~~(e) Any officer violating any provisions of this section is guilty of misconduct in office and shall be subject to removal from office.~~

~~(f)~~ In the event the form of citation provided for in this section includes information required by law and is signed by the officer preparing the same, such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under law.

Sec. 4. K.S.A. 2016 Supp. 32-1001, 32-1041 and 32-1049 are hereby repealed.

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

Approved April 7, 2017.



CHAPTER 26

Substitute for SENATE BILL No. 74

AN ACT concerning persons needing assistance with cognition; relating to motor vehicles, placards, identification cards; state-issued identification cards and driver's licenses; amending K.S.A. 2016 Supp. 8-243 and 8-1324 and repealing the existing sections.

WHEREAS, The provisions of section 1 and the provisions of K.S.A. 2016 Supp. 8-243(f) and K.S.A. 2016 Supp. 8-1324(n), as amended by this act, shall be known and may be cited as *Joey's Law*.

Now, therefore:

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

New Section 1. (a) Any person who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person needs assistance with cognition, including, but not limited to, persons with autism spectrum disorder, shall be issued a placard of a design to be determined by the director for use in any motor vehicle operated or occupied by such person. The placard shall be suitable for attachment to the visor of the vehicle or placing on the dash of the vehicle. A person meeting the requirements of this section may also request the director to issue a decal to be affixed to the license plate of a motor vehicle in addition to the placard and that such information be included as part of the vehicle registration.

(b) Satisfactory proof that a person needs assistance with cognition shall include a statement from a person licensed to practice the healing arts in any state, an advanced practice registered nurse licensed under

K.S.A. 65-1131, and amendments thereto, a licensed physician assistant or a person clinically licensed by the Kansas behavioral sciences regulatory board certifying that such person needs assistance with cognition.

(c) In addition to the placard, the director of vehicles shall issue to the person who needs assistance with cognition an individual identification card that must be carried by the person who needs assistance with cognition when the motor vehicle is being operated or occupied by such person.

(d) Placards and individual identification cards issued pursuant to this section shall be valid as long as the person who needs assistance with cognition is eligible for a placard.

(e) In addition to such other information contained on individual identification cards, cards shall have the date of birth and the gender of the person to whom the card is issued.

(f) Permanent placards and individual identification cards shall be returned to the department of revenue upon the death of the person who needs assistance with cognition.

(g) Any person who willfully and falsely represents that such person has the qualifications to obtain a placard pursuant to this section shall be guilty of a class C misdemeanor.

(h) Any person authorized to certify that a person who needs assistance with cognition under subsection (a) who willfully and falsely certifies that a person has the qualifications to obtain a placard and an individual identification card pursuant to this section shall be guilty of a class C misdemeanor.

(i) Any person who utilizes any placard or identification card issued to another person pursuant to this section shall be guilty of an unclassified misdemeanor punishable by a fine of not less than \$100 and not more than \$300.

(j) The secretary of revenue may adopt such rules and regulations necessary to carry out the provisions of this act.

Sec. 2. K.S.A. 2016 Supp. 8-243 is hereby amended to read as follows: 8-243. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act the driver's license as applied for by the applicant. Such license shall bear the class or classes of motor vehicles which the licensee is entitled to drive, a distinguishing number assigned to the licensee, the full legal name, date of birth, gender, address of principal residence and a brief description of the licensee, either: (1) A digital color image or photograph; or (2) a laser engraved photograph of the licensee, a facsimile of the signature of the licensee and the statement provided for in subsection (b). No driver's license shall be valid until it has been signed by the licensee. All drivers' licenses issued to persons under the age of 21 years shall be readily distinguishable from licenses issued to persons age 21 years or older. In

addition, all drivers' licenses issued to persons under the age of 18 years shall also be readily distinguishable from licenses issued to persons age 18 years or older. The secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, no driver's license issued by the division shall be valid until either: (1) A digital color image or photograph; or (2) a laser engraved photograph of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than \$8 and upon the payment of such fee, the division shall cause either: (1) A digital color image or photograph; or (2) a laser engraved photograph of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing either: (1) A digital color image or photograph; or (2) a laser engraved photograph of such licensee. A driver's license which does not contain the principal address as required may be issued to persons who are program participants pursuant to K.S.A. 2016 Supp. 75-455, and amendments thereto, upon payment of the fee required by K.S.A. 8-246, and amendments thereto. All Kansas drivers' licenses and identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication of the document for fraudulent purposes. The secretary of revenue shall incorporate common machine-readable technology into all Kansas drivers' licenses and identification cards.

(b) All Kansas drivers' licenses issued to any person 16 years of age or older shall contain a form which provides a statement for making a gift of all or any part of the body of the licensee in accordance with the revised uniform anatomical gift act, K.S.A. 2016 Supp. 65-3220 through 65-3244, and amendments thereto, except as otherwise provided by this subsection. The statement to be effective shall be signed by the licensee in the presence of two witnesses who shall sign the statement in the presence of the donor. The gift becomes effective upon the death of the donor. Delivery of the license during the donor's lifetime is not necessary to make a valid gift. Any valid gift statement executed prior to July 1, 1994, shall remain effective until invalidated. The word "Donor" shall be placed on the front of a licensee's driver's license, indicating that the statement for making an anatomical gift under this subsection has been executed by such licensee.

(c) Any person who is deaf or hard of hearing may request that the division issue to such person a driver's license which is readily distinguishable from drivers' licenses issued to other drivers and upon such request the division shall issue such license. Drivers' licenses issued to persons who are deaf or hard of hearing and under the age of 21 years shall be readily distinguishable from drivers' licenses issued to persons who are

deaf or hard of hearing and 21 years of age or older. Upon satisfaction of subsection (a), the division shall issue a receipt of application permitting the operation of a vehicle consistent with the requested class, if there are no other restrictions or limitations, pending the division's verification of the information and production of a driver's license.

(d) A driver's license issued to a person required to be registered under K.S.A. 22-4901 et seq., and amendments thereto, shall be assigned a distinguishing number by the division which will readily indicate to law enforcement officers that such person is a registered offender. The division shall develop a numbering system to implement the provisions of this subsection.

(e) (1) Any person who is a veteran may request that the division issue to such person a driver's license which shall include the designation "VETERAN" displayed on the front of the driver's license at a location to be determined by the secretary of revenue. In order to receive a license described in this subsection, the veteran must provide proof of the veteran's military service and honorable discharge or general discharge under honorable conditions, including a copy of the veteran's DD214 form or equivalent.

(2) As used in this subsection, "veteran" means a person who:

(A) Has served in: The army, navy, marine corps, air force, coast guard, air or army national guard or any branch of the military reserves of the United States; and

(B) has been separated from the branch of service in which the person was honorably discharged or received a general discharge under honorable conditions.

(3) The director of vehicles may adopt any rules and regulations necessary to carry out the provisions of this subsection.

*(f) (1) Any person who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person needs assistance with cognition, including, but not limited to, persons with autism spectrum disorder, may request that the division issue to such person a driver's license, that shall note such impairment on the driver's license at a location to be determined by the secretary of revenue.*

*(2) Satisfactory proof that a person needs assistance with cognition shall include a statement from a person licensed to practice the healing arts in any state, an advanced practice registered nurse licensed under K.S.A. 65-1131, and amendments thereto, a licensed physician assistant or a person clinically licensed by the Kansas behavioral sciences regulatory board certifying that such person needs assistance with cognition.*

Sec. 3. K.S.A. 2016 Supp. 8-1324 is hereby amended to read as follows: 8-1324. (a) Any resident who does not hold a current valid Kansas driver's license may make application to the division of vehicles and be issued one identification card.

(b) For the purpose of obtaining an identification card, an applicant shall submit, with the application, proof of age, proof of identity and proof of lawful presence. An applicant shall submit with the application a photo identity document, except that a non-photo identity document is acceptable if it includes both the applicant's full legal name and date of birth, and documentation showing the applicant's name, the applicant's address of principal residence and the applicant's social security account number. The applicant's social security number shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A. 74-2014, and amendments thereto. If the applicant does not have a social security number, the applicant shall provide proof of lawful presence and Kansas residency. The division shall assign a distinguishing number to the identification card. Before issuing an identification card to a person, the division shall make reasonable efforts to verify with the issuing agency the issuance, validity and completeness of each document required to be presented by the applicant to prove age, identity and lawful presence.

(c) The division shall not issue an identification card to any person who fails to provide proof that the person is lawfully present in the United States. If an applicant provides evidence of lawful presence as set out in K.S.A. 8-240(b)(2)(E) through (2)(I), and amendments thereto, or is an alien lawfully admitted for temporary residence under K.S.A. 8-240(b)(2)(B), and amendments thereto, the division may only issue a temporary identification card to the person under the following conditions: (A) A temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year; (B) a temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date upon which it expires; (C) no temporary identification card issued pursuant to this subparagraph shall be for a longer period of time than the time period permitted by K.S.A. 8-1325, and amendments thereto; and (D) a temporary identification card issued pursuant to this subparagraph may be renewed, subject at the time of renewal, to the same requirements and conditions set forth in this subsection (c) for the issuance of the original temporary identification card.

(d) The division shall not issue an identification card to any person who holds a current valid Kansas driver's license unless such driver's license has been physically surrendered pursuant to the provisions of K.S.A. 8-1002(e), and amendments thereto.

(e) The division shall refuse to issue an identification card to a person holding a driver's license or identification card issued by another state without confirmation that the person is terminating or has terminated the license or identification card.

(f) The parent or guardian of an applicant under 16 years of age shall sign the application for an identification card submitted by such applicant.

(g) (1) The division shall require payment of a fee of \$14 at the time application for an identification card is made, except that persons who are 65 or more years of age or who are handicapped, as defined in K.S.A. 8-1,124, and amendments thereto, shall be required to pay a fee of only \$10. In addition to the fees prescribed by this subsection, the division shall require payment of the photo fee established pursuant to K.S.A. 8-243, and amendments thereto, for the cost of the photograph to be placed on the identification card.

(2) The division shall not require or accept payment of application or photo fees under this subsection for any person 17 years of age or older for purposes of meeting the voter identification requirements of K.S.A. 25-2908, and amendments thereto. Such person shall:

(A) Swear under oath that such person desires an identification card in order to vote in an election in Kansas and that such person does not possess any of the forms of identification acceptable under K.S.A. 25-2908, and amendments thereto. The affidavit shall specifically list the acceptable forms of identification under K.S.A. 25-2908, and amendments thereto; and

(B) produce evidence that such person is registered to vote in Kansas.

(3) The secretary of revenue shall adopt rules and regulations in order to implement the provisions of paragraph (2).

(h) All Kansas identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication for fraudulent purposes.

(i) For the purposes of K.S.A. 8-1324 through 8-1328, and amendments thereto, a person shall be deemed to be a resident of the state if:

(1) The person owns, leases or rents a place of domicile in this state;

(2) the person engages in a trade, business or profession in this state;

(3) the person is registered to vote in this state;

(4) the person enrolls the person's child in a school in this state; or

(5) the person registers the person's motor vehicle in this state.

(j) The division shall require that any person applying for an identification card submit to a mandatory facial image capture. The captured facial image shall be displayed on the front of the applicant's identification card.

(k) (1) Any person who is a veteran may request that the division issue to such person a nondriver identification card which shall include the designation "VETERAN" displayed on the front of the nondriver identification card at a location to be determined by the secretary of revenue. In order to receive a nondriver identification card described in this subsection, the veteran must provide proof of the veteran's military service and honorable discharge or general discharge under honorable conditions, including a copy of the veteran's DD214 form or equivalent.

(2) As used in this subsection, "veteran" means a person who:

(A) Has served in: The army, navy, marine corps, air force, coast

guard, air or army national guard or any branch of the military reserves of the United States; and

(B) has been separated from the branch of service in which the person was honorably discharged or received a general discharge under honorable conditions.

(3) The director of vehicles may adopt any rules and regulations necessary to carry out the provisions of this subsection.

(l) The director of vehicles may issue a temporary identification card to an applicant who cannot provide valid documentary evidence as defined by subsection (c), if the applicant provides compelling evidence proving current lawful presence. Any temporary identification card issued pursuant to this subparagraph shall be valid for one year.

(m) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act an identification card. Such identification card shall bear a distinguishing number assigned to the cardholder, the full legal name, date of birth, address of principal residence, a brief description of the cardholder, either: (1) A digital color image or photograph; or (2) a laser engraved photograph of the cardholder, and a facsimile of the signature of the cardholder. An identification card which does not contain the address of principal residence of the cardholder as required may be issued to persons who are program participants pursuant to K.S.A. 2016 Supp. 75-455, and amendments thereto.

(n) (1) *Any person who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person needs assistance with cognition, including, but not limited to, persons with autism spectrum disorder, may request that the division issue to such person a nondriver identification card, that shall note such impairment on the nondriver identification card at a location to be determined by the secretary of revenue.*

(2) *Satisfactory proof that a person needs assistance with cognition shall include a statement from a person licensed to practice the healing arts in any state, an advanced practice registered nurse licensed under K.S.A. 65-1131, and amendments thereto, a licensed physician assistant or a person clinically licensed by the Kansas behavioral sciences regulatory board certifying that such person needs assistance with cognition.*

Sec. 4. K.S.A. 2016 Supp. 8-243 and 8-1324 are hereby repealed.

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

## CHAPTER 27

## HOUSE BILL No. 2136

AN ACT concerning weights and measures; relating to service companies; technical representatives; amending K.S.A. 2016 Supp. 83-402 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 83-402 is hereby amended to read as follows: 83-402. (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 service 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 service company operates in serving Kansas patrons, the ~~applicant~~ *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 service 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. 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 Kansas department of agriculture shall be~~ is authorized to charge a fee to the attendees of ~~the seminar~~ continuing education seminars sponsored by the department. ~~The amount charged of such fee shall be no more than is necessary to cover the expenses incurred in by providing the seminar. All technical representatives who install, repair, adjust or calibrate a device and certify such devices shall be required to pass the state examination annually. Each technical representative license shall expire on June 30 following issuance of the license and shall be void unless renewed prior to the expiration.~~

(d) No service company license may be issued or renewed under this section until the applicant's weights ~~and~~ 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, ~~or by the appropriate certifying agency of another state~~ in lieu of a test by the secretary, if such certificate shows that the weights or measures, *or both*, have been tested within the ~~12 calendar months next~~ *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. 2. K.S.A. 2016 Supp. 83-402 is hereby repealed.

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

Approved April 7, 2017.

Published in the *Kansas Register* April 20, 2017.

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## CHAPTER 28

### HOUSE BILL No. 2329

AN ACT concerning employment security law; relating to the effect of separation pay on benefits; amending K.S.A. 2016 Supp. 44-704 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 44-704 is hereby amended to read as follows: 44-704. (a) *Payment of benefits.* All benefits provided herein shall be payable from the fund. All benefits shall be paid through the secretary of labor, in accordance with such rules and regulations as the secretary may adopt. Benefits based on service in employment defined in K.S.A. 44-703(i)(3)(E) and (i)(3)(F), and amendments thereto, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act except as provided in K.S.A. 44-705(e) and K.S.A. 44-711(e)(2), and amendments thereto.

(b) *Determined weekly benefit amount.* An individual's determined weekly benefit amount shall be an amount equal to 4.25% of the individual's total wages for insured work paid during that calendar quarter of the individual's base period in which such total wages were highest, subject to the following limitations:

(1) If an individual's determined weekly benefit amount is less than the minimum weekly benefit amount, it shall be raised to such minimum weekly benefit amount;

(2) if the individual's determined weekly benefit amount is more than

the maximum weekly benefit amount, it shall be reduced to the maximum weekly benefit amount; and

(3) if the individual's determined weekly benefit amount is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1.

(c) *Maximum weekly benefit amount.* (1) For initial claims effective prior to July 1, 2015, the maximum weekly benefit amount shall be determined as follows: On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 60% of the average weekly wages paid to employees in insured work during the previous calendar year and shall prior to that date announce the maximum weekly benefit amount so determined, by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the twelve-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent twelve-month period. If the computed maximum weekly benefit amount is not a multiple of \$1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of \$1.

(2) For initial claims effective on or after July 1, 2015, the maximum weekly benefit amount shall be determined as follows: On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 55% of the average weekly wages paid to employees in insured work during the previous calendar year, but not to be less than \$474, and shall, prior to that date, announce the maximum weekly benefit amount so determined by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the 12-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent 12-month period. If the computed maximum weekly benefit amount is not a multiple of \$1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of \$1.

(d) *Minimum weekly benefit amount.* The minimum weekly benefit

amount payable to any individual shall be 25% of the maximum weekly benefit amount effective as of the beginning of the individual's benefit year. If the minimum weekly benefit amount is not a multiple of \$1 it shall be reduced to the next lower multiple of \$1. The minimum weekly benefit amount shall apply through the benefit year, notwithstanding a change in the minimum weekly benefit amount.

(e) All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a subsequent change in the maximum weekly benefit amount.

(f) *Weekly benefit payable.* Each eligible individual who is unemployed with respect to any week, except as to final payment, shall be paid with respect to such week a benefit in an amount equal to such individual's determined weekly benefit amount, less that part of the wage, if any, payable to such individual with respect to such week which is in excess of the amount which is equal to 25% of such individual's determined weekly benefit amount and if the resulting amount is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1.

(1) For the purposes of this section, remuneration received under the following circumstances shall be construed as wages:

(A) Vacation or holiday pay that was attributable to a week that the individual claimed benefits; and

(B) severance pay, if paid as scheduled, and all other employment benefits within the employer's control, as defined in subsection (f)(3), if continued as though the severance had not occurred, except as set out in subsection (f)(2)(C).

(2) For the purposes of this section, remuneration received under the following circumstances shall not be construed as wages:

(A) Remuneration received for services performed on a public assistance work project;

(B) severance pay, in lieu of notice, under the provisions of public law 100-379, the federal worker adjustment and retraining notification act, (29 U.S.C.A. §§ 2101 through 2109);

(C) all other severance pay, separation pay, bonuses, wages in lieu of notice or remuneration of a similar nature that is payable after the severance of the employment relationship, except as set out in subsection (f)(1)(B); and

(D) moneys received as federal social security payments.

(3) For the purposes of this subsection (f), "employment benefits within the employer's control" means benefits offered by the employer to employees which are employee benefit plans as defined by section 3 of the federal employee retirement income security act of 1974, as amended, (29 U.S.C. § 1002) and which the employer has the option to

continue to provide to the employee after the last day that the employee worked for that employer.

(g) *Duration of benefits.* Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of 26 times such individual's weekly benefit amount, or 1/3 of such individual's wages for insured work paid during such individual's base period. Such total amount of benefits, if not a multiple of \$1, shall be reduced to the next lower multiple of \$1.

(h) For the purposes of this section, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has satisfied the conditions of K.S.A. 44-703(h), and amendments thereto, with respect to becoming an employer.

(i) Notwithstanding any other provisions of this section to the contrary, any benefit otherwise payable for any week shall be reduced by the amount of any separation, termination, severance or other similar payment paid to a claimant at the time of or after the claimant's separation from employment during the benefit year.

(1) If any payment pursuant to this subsection is paid with respect to a month, then the amount deemed to be received with respect to any week during such month shall be computed by multiplying such monthly amount by 12 and dividing the product by 52. If there is no designation of the period with respect to which payments to an individual are made under this section, then an amount equal to such individual's normal weekly wage shall be attributed to and deemed paid with respect to the first and each succeeding week following the individual's separation from the employment of the employer making the payment of the separation pay to the individual until such amount so paid is exhausted.

(2) If benefits for any week, when reduced as provided in this subsection, result in an amount not a multiple of one dollar, such benefits shall be rounded to the next lower multiple of one dollar.

(3) *Notwithstanding the reemployment provisions of K.S.A. 44-705(e), and amendments thereto, any individual whose benefit amount is completely reduced under this subsection for 52 or more weeks shall, upon exhaustion of the separation pay, be entitled to a new benefit year based upon entitlement from the base period of the claim that was reduced.*

(j) For weeks commencing on and after January 1, 2014, if at the beginning of the benefit year, the three month seasonally adjusted average unemployment rate for the state of Kansas is: (1) Less than 4.5%, a claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at least 4.5% but less than 6%, a claimant shall be eligible for a maximum of 20 weeks of benefits; or (3) at least 6%, a claimant shall be eligible for a maximum of 26 weeks of benefits.

Sec. 2. K.S.A. 2016 Supp. 44-704 is hereby repealed.

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

Approved April 7, 2017.

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## CHAPTER 29

### SENATE BILL No. 55°

AN ACT concerning public construction contracts; relating to performance and payment bonds; Kansas fairness in public construction contract act.

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

Section 1. (a) Prior to entering into a contract in any sum exceeding \$100,000 with an owner that involves a public-private agreement, the contractor shall furnish to the owner or owner's agent the following bonds, which shall be placed with good and sufficient sureties as determined by the public owner and shall become binding upon the award of the contract by the owner or owner's agent to the contractor:

(1) If a performance bond is not otherwise required pursuant to state law, a performance bond in an amount equal to the full contract amount conditioned upon the faithful performance of the contract in accordance with plans, specifications and conditions thereof, made solely for the protection of the owner awarding the contract; and

(2) a payment bond in an amount equal to the full contract amount solely for the protection of claimants supplying labor or materials to the contractor or subcontractors in the performance of the work.

(b) Each bond shall include a provision allowing the prevailing party in any action on the bond to recover as a part of the judgment reasonable attorney fees and expenses as determined by the court.

(c) For purposes of this section:

(1) "Public-private agreement" means an agreement for public construction involving a nontraditional arrangement between the owner and one or more private entities, including a contractor, that provides for acceptance by the owner of a private contribution to the public construction project in exchange for a public benefit concerning such public construction project other than only a money payment;

(2) "private contribution" means the supply by a private entity of resources to accomplish all or any part of the work to be performed under a public-private agreement, including, but not limited to, funds, financing, supplies, materials or engineering or construction services; and

(3) "public benefit" means a grant by the owner of a right or interest in or concerning the construction project and may include receipts or

revenue arising out of, or in connection with, the grant of a right or interest in the construction project.

(d) This section shall be a part of and supplemental to the Kansas fairness in public construction contract act.

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

Approved April 7, 2017.

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CHAPTER 30

Substitute for SENATE BILL No. 85°

AN ACT concerning healthcare; relating to withholding cardio-pulmonary resuscitation from unemancipated minors; information requirements; refusal of consent, exceptions; dispute resolution.

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

Section 1. (a) This section shall be known and may be cited as Simon’s law.

(b) A do-not-resuscitate order or similar physician’s order shall not be instituted, either orally or in writing, unless at least one parent or legal guardian of a patient or resident who is an unemancipated minor or prospective patient or resident who is an unemancipated minor has first been informed of the physician’s intent to institute such an order and a reasonable attempt has been made to inform the other parent if the other parent is reasonably available and has custodial or visitation rights. Such information must be provided both orally and in writing unless, in reasonable medical judgment, the urgency of the decision requires reliance on only providing the information orally. The provision of such information must be contemporaneously recorded in the patient’s medical record, specifying by whom and to whom the information was given, the date and time of its provision, and whether it was provided in writing as well. When only one parent has been informed, the nature of reasonable attempts to inform the other parent or the reason why such attempts were not made must also be contemporaneously recorded in the patient’s medical record.

(c) Either parent of an unemancipated minor or the unemancipated minor’s guardian may refuse consent for a do-not-resuscitate order or similar physician’s order for the unemancipated minor, either in writing or orally. Any such refusal of consent must be contemporaneously recorded in the patient’s medical record. No do-not-resuscitate order or similar physician’s order shall be instituted either orally or in writing if there has been such a refusal of consent except in accordance with a court order issued pursuant to subsection (d).

(d) If the parents of a minor patient are unable to agree on whether to institute or revoke a do-not-resuscitate order or similar physician's order, either parent may institute a proceeding under subsection (e) to resolve the conflict based on a presumption in favor of the provision of cardio-pulmonary resuscitation. Pending the final determination of such proceedings, including any appeals, a do-not-resuscitate order or similar physician's order shall not be implemented.

(e) A parent or guardian may petition a district court of the county in which the patient resides or in which the patient is receiving treatment for an order enjoining a violation or threatened violation of this section or to resolve a conflict. Upon receiving such a petition, the district court shall issue an order fixing the date, time and place of a hearing on the petition and order that notice of the hearing shall be given to such persons as the court shall direct. A preliminary hearing may be held without notice if the court determines that holding that hearing without notice is necessary to prevent imminent danger to the child's life. In the court's discretion, a hearing may be conducted in a courtroom, a treatment facility or at some other suitable place.

(f) Upon the request of a patient or resident or a prospective patient or resident, a healthcare facility, nursing home or physician shall disclose in writing any policies relating to a patient or resident or the services a patient or resident may receive involving resuscitation or life-sustaining measures, including any policies related to treatments deemed non-beneficial, ineffective, futile or inappropriate, within the healthcare facility or agency. Nothing in this section shall require a healthcare facility, nursing home or physician to have a written policy relating to or involving resuscitation, life-sustaining or non-beneficial treatment for unemancipated minor patients or adult patients, residents or wards.

(g) Nothing in this section may be construed to alter or supersede the provisions of K.S.A. 65-2891, and amendments thereto, relating to emergency care by health care providers.

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

Approved April 7, 2017.

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CHAPTER 31

HOUSE BILL No. 2025  
(Amended by Chapter 100)

AN ACT concerning the board of nursing; relating to assistant attorneys general; reinstatement of licenses; fees; mental health technician’s licensure act; amending K.S.A. 65-4203, 65-4208 and 74-1111 and K.S.A. 2016 Supp. 65-1118, 65-4202 and 65-4212 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 65-1118 is hereby amended to read as follows: 65-1118. (a) The board shall collect in advance fees provided for in this act as fixed by the board, but not exceeding:

Application for license—professional nurse .....	\$75
Application for license—practical nurse .....	50
Application for biennial renewal of license—professional nurse and practical nurse .....	60
Application for reinstatement of license .....	70
Application for reinstatement of licenses with temporary permit .....	100
<i>Application for reinstatement of revoked license .....</i>	<i>1,000</i>
Certified copy of license .....	25
Duplicate of license .....	25
Inactive license .....	20
Application for license—advanced practice registered nurse .....	50
Application for license with temporary permit—advanced practice registered nurse .....	100
Application for renewal of license—advanced practice registered nurse .....	60
Application for reinstatement of license—advanced practice registered nurse .....	75
Application for authorization—registered nurse anesthetist .....	75
Application for authorization with temporary authorization— registered nurse anesthetist .....	110
Application for biennial renewal of authorization—registered nurse anesthetist .....	60
Application for reinstatement of authorization—registered nurse anesthetist .....	75
Application for reinstatement of authorization with temporary authorization—registered nurse anesthetist .....	100
Verification of license to another state .....	30
Application for exempt license—professional and practical nurse	50
Application for biennial renewal of exempt license—professional and practical nurse .....	50
Application for exempt license—advanced practice registered nurse .....	50

Application for biennial renewal of exempt license—advanced  
 practice registered nurse ..... 50

(b) The board may require that fees paid for any examination under the Kansas nurse practice act be paid directly to the examination service by the person taking the examination.

(c) The board shall accept for payment of fees under this section personal checks, certified checks, cashier’s checks, money orders or credit cards. The board may designate other methods of payment, but shall not refuse payment in the form of a personal check. The board may impose additional fees and recover any costs incurred by reason of payments made by personal checks with insufficient funds and payments made by credit cards.

New Sec. 2. (a) A person whose license has been revoked may apply for reinstatement of the license after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form approved by the board and shall be accompanied by a reinstatement fee established by the board under K.S.A. 65-1118, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license. If the board determines 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 provisions of 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.

(b) On or before January 8, 2018, and on or before the first day of the regular session of the Kansas legislature each year thereafter, the board of nursing shall submit a written report to the senate standing committee on public health and welfare and the house of representatives standing committee on health and human services that includes on an anonymous but individual and itemized basis: The number of individuals who applied for reinstatement of a revoked license during the immediately preceding calendar year; the amount of moneys charged to each such applicant; the number of such reinstatement applications that were granted and denied; and the basis given to deny any such reinstatement application.

(c) This section shall be part of and supplemental to the Kansas nurse practice act.

Sec. 3. K.S.A. 2016 Supp. 65-4202 is hereby amended to read as follows: 65-4202. As used in this act: (a) “Board” means the state board of nursing.

(b) The “practice of mental health technology” means the perform-

ance, under the direction of a physician licensed to practice medicine and surgery or registered professional nurse, of services in caring for and treatment of the mentally ill, emotionally disturbed, or people with intellectual disability for compensation or personal profit; ~~which services that:~~

(1) ~~Involves responsible nursing participation and provision of input into the development of person-centered treatment plans and therapeutic procedures for patients with mental illness or intellectual disability individuals or groups of individuals specified in subsection (b) requiring interpersonal and technical skills in the observations and recognition of symptoms and reactions of such patients individuals, the accurate recording of such symptoms and reactions and the carrying out of treatments and medications as prescribed by a licensed physician or a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626(ii), and amendments thereto; and~~

(2) require an application of techniques and procedures that involve understanding of cause and effect and the safeguarding of life and health of the ~~patient~~ *individual* and others; and

(3) require the performance of duties that are necessary to facilitate *habilitation and* rehabilitation of the ~~patient~~ *individual* or are necessary in the physical, therapeutic and psychiatric care of the ~~patient~~ *individual* and require close work with persons licensed to practice medicine and surgery, psychiatrists, psychologists, rehabilitation therapists, social workers, registered nurses, and other professional personnel.

(c) A “licensed mental health technician” means a person who lawfully practices mental health technology as defined in this act.

(d) An “approved course in mental health technology” means a program of training and study including a basic curriculum ~~which that~~ shall be prescribed and approved by the board in accordance with the standards prescribed herein, the successful completion of which shall be required before licensure as a mental health technician, except as herein after provided.

Sec. 4. K.S.A. 65-4203 is hereby amended to read as follows: 65-4203.

(a) *Qualification.* An applicant for a license to practice as a mental health technician shall:

(1) Have graduated from a high school accredited by the appropriate legal accrediting agency or ~~has~~ *have* obtained the equivalent of a high school education, as determined by the state department of education;

(2) have satisfactorily completed an approved course of mental health technology; and

(3) file with the board a written application for a license.

(b) The board may issue a license to an applicant to practice as a mental health technician who has:

(1) Met the qualifications set forth in subsection (a);

(2) passed a written examination in mental health technology as prescribed and conducted by the board; and

(3) no disqualifying factors under K.S.A. 65-4209, and amendments thereto.

(c) *Licensure examination within 24 months of graduation.* (1) Persons who do not take the licensure examination within 24 months after graduation shall petition the board for permission prior to taking the licensure examination. The board may require the applicant to submit and complete a plan of study prior to taking the licensure examination.

(2) Persons who are unsuccessful in passing the licensure examination within 24 months after graduation shall petition the board for permission prior to subsequent attempts. The board may require the applicant to submit and complete a plan of study prior to taking the licensure examination a subsequent time. The study plan shall contain subjects related to deficiencies identified on the failed examination profiles.

(d) An application for initial licensure will be held awaiting completion of meeting qualifications for a time period specified in rules and regulations.

(e) *Refresher course.* Notwithstanding the provisions of subsection (a), an applicant for a license to practice as a mental health technician who has not been licensed to practice as a mental health technician for five years preceding application shall be required to successfully complete a refresher course as defined by the board in rules and regulations.

(f) The board may issue a one-time temporary permit to practice as a mental health technician for a period not to exceed 120 days when a reinstatement application has been made.

(g) *Exempt license.* The board may issue an exempt license to any licensee as defined in rules and regulations who makes written application for such license on a form provided by the board, who remits a fee as established pursuant to K.S.A. 65-4208, and amendments thereto, and who is not regularly engaged in mental health technician practice in Kansas but volunteers mental health technician service or is a charitable health care provider as defined by K.S.A. 75-6102, and amendments thereto. Each exempt licensee shall be subject to all provisions of the mental health technician act, except as otherwise provided in this subsection (e). Each exempt license may be renewed biennially subject to the provisions of this section. The holder of the exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education for renewal. To convert an exempt license to an active license, the exempt licensee shall meet all the requirements of subsection (b) or K.S.A. 65-4205, and amendments thereto. The board shall have authority to write rules and regulations to carry out the provisions of this section.

(h) The board may adopt rules and regulations as necessary to administer the mental health technician's licensure act.

Sec. 5. K.S.A. 65-4208 is hereby amended to read as follows: 65-4208. (a) The board shall collect in advance the fees provided for in this act, the amount of which shall be fixed by the board by rules and regulations, but not to exceed:

(1) Mental health technician programs:

Annual renewal of program approval .....	\$110
Survey of a new program .....	220
Application for approval of continuing education providers .....	200
Annual fee for continuing education providers .....	75

(2) Mental health technicians:

Application for license .....	\$50
Application for renewal of license .....	60
Application for reinstatement .....	70
Application for reinstatement of license with temporary permit ..	75
Certified copy of license .....	12
Duplicate of license .....	12
Inactive license .....	20
<del>Examination .....</del>	<del>40</del>
<del>Reexamination .....</del>	<del>40</del>
Verification of current Kansas license to other states .....	11
Application for exempt license .....	50
Application for biennial renewal of exempt license .....	50

(b) *The board shall require that fees for an examination prescribed by the board be paid directly to the examination service providing the examination by the person taking the examination.*

(c) The board shall accept for payment of fees under this section personal checks, certified checks, cashier’s checks, money orders or credit cards. The board may designate other methods of payment, but shall not refuse payment in the form of a personal check. The board may impose additional fees and recover any costs incurred by reason of payments made by personal checks with insufficient funds and payments made by credit cards.

Sec. 6. K.S.A. 2016 Supp. 65-4212 is hereby amended to read as follows: 65-4212. The provisions of this act shall not be construed as prohibiting: (a) Gratuitous care of the mentally ill, emotionally disturbed or people with intellectual disability by friends or members of the family;

(b) the practice of mental health technology by students enrolled in approved courses of mental health technology;

(c) the practice of mental health technology by graduates of an approved course in mental health technology who are practicing as mental health technicians pending the results of the first licensing examination scheduled by the board following graduation;

(d) practice by short-term trainees exploring the practice of mental health technology as a prospective vocation;

(e) service conducted in accordance with the practice of the tenets of any religious denomination in which persons of good faith rely solely upon spiritual means or prayer in the exercise of their religion to prevent or cure disease;

(f) the practice of any legally qualified mental health technician of this state or another who is employed by the United States government of any bureau, division or agency thereof, while in the discharge of official duties;

(g) temporary assistance in the therapeutic care of ~~patients~~ *individuals* where adequate medical, nursing, and/or other supervision is provided;

(h) subsidiary workers in hospitals or related institutions from assisting in the nursing care of ~~patients~~ *individuals* where adequate medical and nursing supervision is provided; and

(i) the employment of psychiatric aides who have received at least three months instruction in an approved basic aide training program and who work under the supervision of licensed personnel.

Sec. 7. K.S.A. 74-1111 is hereby amended to read as follows: 74-1111.

(a) The attorney general shall appoint, with the approval of the board of nursing, ~~an assistant attorney~~ *assistant attorneys* general who shall carry out the duties under subsection (b). The ~~attorney~~ *attorneys* shall receive an annual salary fixed by the attorney general with the approval of the board of nursing. The ~~salary~~ *salaries* shall be paid from moneys appropriated to the board of nursing in the board of nursing fee fund.

(b) The assistant ~~attorney~~ *attorneys* general appointed under subsection (a) shall represent the board of nursing in any proceedings or litigation that may arise in the discharge of the duties of the board of nursing and shall perform such other duties of a legal nature as may be directed by the board of nursing.

Sec. 8. K.S.A. 65-4203, 65-4208 and 74-1111 and K.S.A. 2016 Supp. 65-1118, 65-4202 and 65-4212 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 12, 2017.

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## CHAPTER 32

## HOUSE BILL No. 2030

AN ACT concerning the administration of vaccines; reports relating thereto; amending K.S.A. 2016 Supp. 65-1635a and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 65-1635a is hereby amended to read as follows: 65-1635a. (a) A pharmacist or a pharmacy student or intern who is working under the direct supervision and control of a pharmacist may administer influenza vaccine to a person six years of age or older and may administer vaccine, other than influenza vaccine, to a person ~~18~~ 12 years of age or older pursuant to a vaccination protocol if the pharmacist, pharmacy student or intern has successfully completed a course of study and training, approved by the accreditation council for pharmacy or the board, in vaccination storage, protocols, injection technique, emergency procedures and recordkeeping and has taken a course in cardiopulmonary resuscitation (CPR) and has a current CPR certificate when administering vaccine. A pharmacist or pharmacy student or intern who successfully completes such a course of study and training shall maintain proof of completion and, upon request, provide a copy of such proof to the board.

(b) All vaccinees will be given a written immunization record for their personal files. The administering pharmacist or pharmacist supervising an administering pharmacy student or intern shall promptly report a record of the immunization to the vaccinee's primary care provider by mail, electronic facsimile, e-mail or other electronic means. If the vaccinee does not have a primary care provider, then the administering pharmacist or pharmacist supervising an administering pharmacy student or intern shall promptly report a record of the immunization to the person licensed to practice medicine and surgery by the state board of healing arts who has entered into the vaccination protocol with the pharmacist. The immunization will also be reported to appropriate county or state immunization registries, *except that if the person vaccinated or, if the person is a minor, the parent or guardian of the minor, objects to the report, the report shall not be made.*

(c) A pharmacist, pharmacy student or intern may not delegate to any person the authority granted under this act to administer a vaccine.

(d) As used in this section, "pharmacist" means a pharmacist as defined in K.S.A. 65-1626, and amendments thereto, who has successfully completed a course of study and training, approved by the accreditation council for pharmacy or the board, in vaccination storage, protocols, injection technique, emergency procedures and recordkeeping and has taken a course in cardiopulmonary resuscitation (CPR) and has a current CPR certificate.

(e) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 2. (a) On and after July 1, 2020, physicians and other persons authorized by law in this state to administer vaccines shall report the administration of a vaccine to a person in this state to the state registry maintained for such purpose by the secretary of health and environment in a manner and form as may be required by the secretary, except that if the person vaccinated or, if the person is a minor, the parent or guardian of the minor, objects to the report, the report shall not be made.

(b) As used in this section, “physician” means a person licensed to practice medicine and surgery.

Sec. 3. K.S.A. 2016 Supp. 65-1635a is hereby repealed.

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

Approved April 12, 2017.

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## CHAPTER 33

Senate Substitute for HOUSE BILL No. 2027

AN ACT concerning the healing arts; relating to anatomic pathology billing; institutional licenses; licensee reporting; amending K.S.A. 2016 Supp. 65-2837, 65-2895 and 65-2898 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 65-2837 is hereby amended to read as follows: 65-2837. As used in K.S.A. 65-2836, and amendments thereto, and in this section:

(a) “Professional incompetency” means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree ~~which~~ *that* 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~~ *that* constitutes ordinary negligence, as determined by the board.

(3) A pattern of practice or other behavior ~~which~~ *that* demonstrates a manifest incapacity or incompetence to practice the healing arts.

(b) “Unprofessional conduct” means:

(1) Solicitation of professional patronage through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee.

(2) Representing to a patient that a manifestly incurable disease, condition or injury can be permanently cured.



(3) Assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representatives.

(4) The use of any letters, words, or terms, as an affix, on stationery, in advertisements, or otherwise indicating that such person is entitled to practice a branch of the healing arts for which such person is not licensed.

(5) Performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion.

(6) Willful betrayal of confidential information.

(7) Advertising professional superiority or the performance of professional services in a superior manner.

(8) Advertising to guarantee any professional service or to perform any operation painlessly.

(9) Participating in any action as a staff member of a medical care facility ~~which~~ *that* is designed to exclude or ~~which~~ *that* results in the exclusion of any person licensed to practice medicine and surgery from the medical staff of a nonprofit medical care facility licensed in this state because of the branch of the healing arts practiced by such person or without just cause.

(10) Failure to effectuate the declaration of a qualified patient as provided in ~~subsection (a) of~~ K.S.A. 65-28,107(a), and amendments thereto.

(11) Prescribing, ordering, dispensing, administering, selling, supplying or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 65-2837a, and amendments thereto.

(12) Conduct likely to deceive, defraud or harm the public.

(13) Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, treatment or remedy prescribed by the licensee or at the licensee's direction in the treatment of any disease or other condition of the body or mind.

(14) Aiding or abetting the practice of the healing arts by an unlicensed, incompetent or impaired person.

(15) Allowing another person or organization to use the licensee's license to practice the healing arts.

(16) Commission of any act of sexual abuse, misconduct or other improper sexual contact, ~~which~~ *that* exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning such patient.

(17) The use of any false, fraudulent or deceptive statement in any document connected with the practice of the healing arts including the intentional falsifying or fraudulent altering of a patient or medical care facility record.

(18) Obtaining any fee by fraud, deceit or misrepresentation.

(19) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and

personally rendered, other than through the legal functioning of lawful professional partnerships, corporations, limited liability ~~company~~ *companies* or associations.

(20) Failure to transfer patient records to another licensee when requested to do so by the subject patient or by such patient's legally designated representative.

(21) Performing unnecessary tests, examinations or services ~~which~~ *that* have no legitimate medical purpose.

(22) Charging an excessive fee for services rendered.

(23) Prescribing, dispensing, administering or distributing a prescription drug or substance, including a controlled substance, in an improper or inappropriate manner, or for other than a valid medical purpose, or not in the course of the licensee's professional practice.

(24) Repeated failure to practice healing arts with that level of care, skill and treatment ~~which~~ *that* is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

(25) Failure to keep written medical records ~~which~~ *that* accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

(26) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.

(27) Using experimental forms of therapy without proper informed patient consent, without conforming to generally accepted criteria or standard protocols, without keeping detailed legible records or without having periodic analysis of the study and results reviewed by a committee or peers.

(28) Prescribing, dispensing, administering or distributing an anabolic steroid or human growth hormone for other than a valid medical purpose. Bodybuilding, muscle enhancement or increasing muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose.

(29) Referring a patient to a health care entity for services if the licensee has a significant investment interest in the health care entity, unless the licensee informs the patient in writing of such significant investment interest and that the patient may obtain such services elsewhere.

(30) Failing to properly supervise, direct or delegate acts ~~which~~ *that* constitute the healing arts to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.

(31) Violating K.S.A. 65-6703, and amendments thereto.

(32) Charging, billing or otherwise soliciting payment from any patient, patient's representative or insurer for anatomic pathology services, if such services are not personally rendered by the licensee or under such

licensee's direct supervision. As used in this subsection, "anatomic pathology services" means the gross or microscopic examination of histologic processing of human organ tissue or the examination of human cells from fluids, aspirates, washings, brushings or smears, including blood banking services, and subcellular or molecular pathology services, performed by or under the supervision of a person licensed to practice medicine and surgery or a clinical laboratory. Nothing in this subsection shall be construed to prohibit billing for anatomic pathology services by:

- (A) A hospital, ~~or by;~~
- (B) a clinical laboratory when samples are transferred between clinical laboratories for the provision of anatomic pathology services; or
- (C) *a physician providing services to a patient pursuant to a medical retainer agreement in compliance with K.S.A. 65-4978, and amendments thereto, when the bill to the patient for such services:*
  - (i) *Identifies the laboratory or physician that performed the services;*
  - (ii) *discloses in writing to the patient the actual amount charged by the physician or laboratory that performed the service; and*
  - (iii) *is consistent with rules and regulations adopted by the board for appropriate billing standards applicable to such services when furnished under these agreements.*

(33) Engaging in conduct ~~which~~ *that* violates patient trust and exploits the licensee-patient relationship for personal gain.

(34) Obstructing a board investigation including, but not limited to, engaging in one or more of the following acts:

- (A) Falsifying or concealing a material fact;
- (B) knowingly making or causing to be made any false or misleading statement or writing; or
- (C) other acts or conduct likely to deceive or defraud the board.
- (c) "False advertisement" means any advertisement ~~which~~ *that* is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(d) "Advertisement" means all representations disseminated in any manner or by any means; for the purpose of inducing, or ~~which~~ *that* are likely to induce, directly or indirectly, the purchase of professional services.

(e) "Licensee" for purposes of this section and K.S.A. 65-2836, and amendments thereto, ~~shall mean~~ *means* all persons issued a license, permit or special permit pursuant to article 28 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(f) "License" for purposes of this section and K.S.A. 65-2836, and amendments thereto, ~~shall mean~~ *means* any license, permit or special

permit granted under article 28 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(g) “Health care entity” means any corporation, firm, partnership or other business entity ~~which that~~ provides services for diagnosis or treatment of human health conditions and ~~which that~~ is owned separately from a referring licensee’s principle practice.

(h) “Significant investment interest” means ownership of at least 10% of the value of the firm, partnership or other business entity ~~which that~~ owns or leases the health care entity, or ownership of at least 10% of the shares of stock of the corporation ~~which that~~ owns or leases the health care entity.

Sec. 2. K.S.A. 2016 Supp. 65-2895 is hereby amended to read as follows: 65-2895. (a) There is hereby created an institutional license ~~which that~~ may be issued by the board to a person who:

(1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which the graduates have been licensed in another state or states ~~which that~~ have standards similar to Kansas;

(2) has completed at least two years in a postgraduate training program in the United States approved by the board; and

(3) who is employed as provided in this section.

(b) Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license.

(c) The practice privileges of institutional license holders are restricted and shall be valid only during the period in which:

(1) The holder is employed by any institution within the Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party, and only within the institution to which the holder is assigned; and

(2) the holder has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in Kansas in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 et seq., and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of

the duties of such licensee's paid position and is performed solely on behalf of the employer; or

(3) *the holder was issued an institutional license prior to May 9, 1997, and is providing mental health services pursuant to a written protocol with a person who holds a Kansas license to practice medicine and surgery other than an institutional license.*

(d) An institutional license shall be canceled on the date established by rules and regulations of the board ~~which~~ *that* may provide for renewal throughout the year on a continuing basis. In each case in which an institutional license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, ~~which~~ *that* shall be paid not later than the renewal date of the license. An institutional license may be renewed for an additional one-year period if the applicant for renewal meets the requirements under subsection (c), has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed \$500 and has submitted evidence of satisfactory completion of a program of continuing education required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed signed by the superintendent of the institution to which the institutional license holder is assigned.

(e) Nothing in this section shall prohibit any person who was issued an institutional license prior to the effective date of this section from having the institutional license reinstated by the board if the person meets the requirements for an institutional license described in subsection (a).

(f) This section shall be a part of and supplemental to the Kansas healing arts act.

Sec. 3. K.S.A. 2016 Supp. 65-2898 is hereby amended to read as follows: 65-2898. (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, *and such person reporting shall be immune from any civil liability that might otherwise be incurred in an action resulting from reporting such information. In any civil action resulting from reporting such information in which a court determines that a person reporting under this section reported in good faith, the court shall allow the person reporting a reasonable amount for attorney fees and expenses incurred in defending the civil action.*

(b) Any state, regional or local association composed of persons licensed to practice a profession regulated by the board and the individual members of any committee thereof, ~~which~~ *that* 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.

Sec. 4. K.S.A. 2016 Supp. 65-2837, 65-2895 and 65-2898 are hereby repealed.

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

Approved April 12, 2017.

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## CHAPTER 34

Senate Substitute for HOUSE BILL No. 2055  
(Amended by Chapter 100)

AN ACT concerning the state board of pharmacy; relating to powers, duties and functions thereof; biological products; amending K.S.A. 65-669, 65-1633, 65-1635, 65-1648, 65-1660 and 65-7007 and K.S.A. 2016 Supp. 65-1626, 65-1627, 65-1636, 65-1637, 65-1642, 65-1643, 65-1645, 65-1655, 65-1663, 65-1669, 65-1676, 65-2837a and 65-4202 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 65-1637b and 65-1651a.

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

Section 1. K.S.A. 2016 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, *repackager, wholesale distributor, third-party logistics provider* or dispenser but ~~shall~~ *does 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.~~ “Automated dispensing system” means a robotic or mechanical system controlled by a computer that: (1) Performs operations or activities, other than compounding or administration, relative to the storage, packaging, labeling, dispensing or distribution of drugs; (2) collects, controls and maintains all transaction information; and (3) operates in accordance with the board’s rules and regulations.

(e) “Biological product” means the same as defined in 42 U.S.C. § 262(i), as in effect on January 1, 2017.

~~(e)(f)~~ “Board” means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

~~(f)(g)~~ “Brand exchange,” in the case of a drug prescribed, 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, and in the case of a biological product prescribed, means the dispensing of an interchangeable biological product.

~~(g)(h)~~ “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-lic~~Co-licensed partner” means a person or pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer or an affiliate of the 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 product.

(j) “Common carrier” means any person who undertakes, whether

directly or by any other arrangement, to transport property, including drugs, for compensation.

(k) “Compounding” means the combining of components into a compounded preparation under either of the following conditions:

(1) As the result of a practitioner’s prescription drug order or initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice to meet the specialized medical need of an individual patient of the practitioner that cannot be filled by an FDA-approved drug; or

(2) for the purpose of, or incidental to, research, teaching or chemical analysis, and not for sale or dispensing.

Compounding includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed prescribing patterns.

Compounding does not include reconstituting any oral or topical drug according to the FDA-approved labeling for the drug or preparing any sterile or nonsterile preparation that is essentially a copy of a commercially available product.

(l) “DEA” means the U.S. department of justice, drug enforcement administration.

~~(k)~~(m) “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)~~(n) “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)~~(o) “Dispense” or “dispensing” 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)~~(p) “Dispenser” means:

(1) A practitioner or pharmacist who dispenses prescription medication, or a physician assistant who has authority to dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto; or

(2) a retail pharmacy, hospital pharmacy or group of pharmacies under common ownership and control that do not act as a wholesale distributor, or affiliated warehouses or distribution centers of such entities under common ownership and control that do not act as a wholesale distributor.

~~(o)~~(q) “Distribute” or “distribution” means to deliver, offer to deliver, sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store or receive, other than by administering or dispensing, any ~~drug~~



product, but does not include dispensing a product pursuant to a prescription executed in accordance with 21 U.S.C. § 353 or the dispensing of a product approved under 21 U.S.C. § 360b.

~~(p)~~(r) “Distributor” means a person ~~who~~ or entity that distributes a drug.

~~(q)~~(s) “Drop shipment” means the sale, by a manufacturer, ~~that manufacturer’s co-licensor, that manufacturer’s third party logistics provider, repackager 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~~ dispenser, and the dispenser receives delivery of the prescription drug directly from the manufacturer, ~~that manufacturer’s co-licensor, that manufacturer’s repackager,~~ 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)~~(t) “Drug” means: (1) Articles recognized in the official United States *pharmacopeia*, or other such official compendiums of the United States, or official national formulary, or any supplement ~~of to~~ any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of human or other animals; and (4) articles intended for use as a component of any articles specified in paragraph (1), (2) or (3); 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)~~(u) “Durable medical equipment” means ~~technologically sophisticated medical devices that may be used in a residence, including the following equipment that:~~ (1) ~~Oxygen and oxygen delivery system~~ Provides therapeutic benefits or enables an individual to perform certain tasks that the individual is unable to otherwise undertake due to certain medical conditions or illnesses; (2) ~~ventilators~~ is primarily and customarily used to serve a medical purpose; (3) ~~respiratory disease management devices~~ generally is not useful to a person in the absence of an illness or injury; (4) ~~continuous positive airway pressure (CPAP) devices~~ can withstand repeated use; (5) ~~electronic and computerized wheelchairs and seating systems~~ is appropriate for use in the home, long-term care facility or medical care facility, but may be transported to other locations to allow the

*individual to complete instrumental activities of daily living that are more complex tasks required for independent living; and (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) may include devices and medical supplies or other similar equipment determined by the board in rules and regulations adopted by the board.*

~~(t)~~(v) “Electronic prescription” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

~~(u)~~(w) “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)~~(x) “Electronic signature” means a confidential personalized digital key, code, number or other method for secure electronic data transmissions ~~which~~ that 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)~~(y) “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)~~(z) “Electronically prepared prescription” means a prescription that is generated using an electronic prescription application.

~~(y)~~(aa) “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 the wholesale distributor that directly purchased the product from the manufacturer and is the sole distributor of that manufacturer’s product to a subsequent repackager, wholesale distributor or dispenser.~~

~~(z)~~(bb) “FDA” means the U.S. department of health and human services, food and drug administration.

(cc) “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)~~(dd) "Generic name" means the established chemical name or official name of a drug or drug product.

~~(bb)~~(ee) "*Health care entity*" means any person that provides diagnostic, medical, surgical or dental treatment or rehabilitative care but does not include any retail pharmacy or wholesale distributor.

(ff) (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~~ that 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~~ that 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)~~(gg) "*Interchangeable biological product*" means a biological product that the FDA has:

(1) *Licensed and determined meets the standards for interchangeability*" as defined in 42 U.S.C. § 262(k), as in effect on January 1, 2017; or

(2) *determined to be therapeutically equivalent as set forth in the latest edition or supplement to the FDA's approved drug products with therapeutic equivalence evaluations.*

(hh) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

~~(dd)~~(ii) "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 co-licensed partners.

(jj) “Label” means a display of written, printed or graphic matter upon the immediate container of any drug.

(kk) “Labeling” means the process of preparing and affixing a label to any drug container, exclusive of the labeling by a manufacturer, packer or distributor of a non-prescription drug or commercially packaged legend drug.

(ll) “Long-term care facility” means “nursing facility,” as defined in K.S.A. 39-923, and amendments thereto.

~~(ee)~~(mm) “Medical care facility” ~~shall have the meaning provided means the same as defined in K.S.A. 65-425, and amendments thereto,~~ except that the term ~~shall also include~~ includes facilities licensed under the provisions of K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 *et seq.*, and amendments thereto, except community mental health centers and facilities for people with intellectual disability.

~~(ff)~~(nn) “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 or biological synthesis or by a combination of extraction and chemical or biological synthesis ~~and includes any or the packaging or repackaging of the drug or labeling or relabeling of its container,~~ except that this term ~~shall~~ does 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)~~(oo) “Manufacturer” means ~~a person licensed or approved by the FDA to engage in the manufacture of drugs and devices:~~

(1) A person that holds an application approved under section 505 of the federal food, drug and cosmetic act or a license issued under section 351 of the federal public health service act for such drug or, if such drug is not the subject of an approved application or license, the person who manufactured the drug;

(2) a co-licensed partner of the person described in paragraph (1) that obtains the drug directly from a person described in paragraph (1) or (3); or

(3) an affiliate of a person described in paragraph (1) or (2) that

receives the product directly from a person described in paragraph (1) or (2).

~~(hh)~~(pp) “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 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.~~

(qq) “Nonresident pharmacy” means a pharmacy located outside of Kansas.

(rr) “Outsourcing facility” or “virtual outsourcing facility” means a facility at one geographic location or address that is engaged in the compounding of sterile drugs and has registered with the FDA as an outsourcing facility pursuant to 21 U.S.C. § 353b.

~~(jj)~~(ss) “Person” means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

~~(kk)~~(tt) “Pharmacist” means any natural person licensed under this act to practice pharmacy.

~~(ll)~~(uu) “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 phar-

maciſt-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)~~(vv) “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~~ *that* is not accredited and who has ſuſſeſſfully paſſed equivalency examinations approved by the board.

~~(nn)~~(uw) “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~~ *that* 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)~~(xx) “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)~~(yy) “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)~~(zz) “Practitioner” means a perſon licensed to practice medicine and ſurgery, dentiſt, podiatriſt, veterinarian, optometriſt or ſcientific in-veſtigatoſ 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)~~(aaa) “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)~~(bbb) “Preſcriber” means a practitioner or a mid-level practitioner.

~~(tt)~~(ccc) “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)~~(ddd) “Prescription medication” means any drug, including label and container according to context, ~~which~~ *that* is dispensed pursuant to a prescription order.

~~(vv)~~(eee) “Prescription-only drug” means any drug whether intended for use by 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)~~(fff) “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)~~(ggg) “Product” means the same as defined by part H of the federal drug supply chain security act, 21 U.S.C. § 351 *et seq.* and 21 U.S.C. § 360*eee*.

(hhh) “Professional incompetency” means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree ~~which~~ *that* 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~~ *that* constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior ~~which~~ *that* demonstrates a manifest incapacity or incompetence to practice pharmacy.

~~(yy)~~(iii) “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.

(jjj) “Repackage” means changing the container, wrapper, quantity or label of a drug to further the distribution of the drug.

(lll) “Repackager” means a person who owns or operates a facility that repackages.

~~(zz)~~(mmm) “Retail dealer” means a person selling at retail nonprescription drugs ~~which~~ *that* 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.

(nm) “Return” means *providing product to the authorized immediate trading partner from whom such product was purchased or received, or to a returns processor or reverse logistics provider for handling of such product.*

(oo) “Returns processor” or “reverse logistics provider” means *a person who owns or operates an establishment that disposes of or otherwise processes saleable or nonsaleable products received from an authorized trading partner such that the product may be processed for credit to the purchaser, manufacturer or seller or disposed of for no further distribution.*

~~(aaa)~~(ppp) “Secretary” means the executive secretary of the board.

~~(bbb)~~(qqq) “Third-party logistics provider” means an entity that: ~~(1) provides or coordinates warehousing, distribution or other logistic services of a product in interstate commerce on behalf of a manufacturer, wholesale distributor or dispenser, but does not take title to the prescription drug ownership of the product or have general responsibility to direct the prescription drug’s sale or disposition of the product; (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.~~

(rrr) “Trading partner” means:

(1) *A manufacturer, repackager, wholesale distributor or dispenser from whom a manufacturer, repackager, wholesale distributor or dispenser accepts direct ownership of a product or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct ownership of a product; or*

(2) *a third-party logistics provider from whom a manufacturer, repackager, wholesale distributor or dispenser accepts direct possession of a product or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct possession of a product.*

(sss) “Transaction” means *the transfer of product between persons in which a change of ownership occurs.*

~~(ccc)~~(ttt) “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 that~~ have no legitimate pharmaceutical purpose.

~~(ddd)~~(uuu) "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 that~~ establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

~~(eee)~~(vvv) "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)~~(www) "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 non-human.

~~(ggg)~~(xxx) "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, *other than a manufacturer, co-licensed partner, third-party logistics provider or repackager.*

~~(hhh)~~(yyy) "Wholesale distribution" means the distribution or receipt of prescription drugs or devices ~~by wholesale distributors to or by 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 in which a change of ownership occurs. 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 distribution of a prescription drug or device or an offer to sell, purchase or trade distribute a prescription drug or device for emergency medical reasons, including a public health emergency declaration pursuant to section 319 of the public health service act, except that, for purposes of this paragraph, a drug shortage not caused by a public health emergency shall not constitute an emergency medical reason;~~

(3) ~~intracompany transactions, as defined in this section, unless in violation of own use provisions distribution of any drug between members of an affiliate or within a manufacturer;~~

(4) ~~the sale, purchase or trade distribution of a prescription drug or device or an offer to sell, purchase or trade distribute 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 distribution of a prescription drug or device or the offer to sell, purchase or trade distribute 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 dispenser, 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 for use by such dispenser, hospital or other health care entity;~~

(7) ~~the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement the distribution of a drug by the manufacturer of such drug;~~

(8) ~~the sale, purchase or trade of blood and blood components intended for transfusion the receipt or transfer of a drug by an authorized third-party logistics provider, provided that such third-party logistics provider does not take ownership of the drug;~~

(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 the transport of a drug by a~~

*common carrier, provided that the common carrier does not take ownership of the drug;*

~~(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~~ *the distribution of a drug or an offer to distribute a drug by an authorized repackager that has taken ownership or possession of the drug and repacks it in accordance with section 582(e) of the federal food, drug and cosmetic act;*

~~(11) the distribution of drug samples by manufacturers' and authorized distributors' representatives~~ *saleable drug returns when conducted by a dispenser;*

~~(12) the sale~~ *distribution of minimal quantities of drugs by licensed retail pharmacies to licensed practitioners for office use;*

~~(13) the distribution of a collection of finished medical devices, including a product or biological product in accordance with 21 U.S.C. § 353(e)(4)(M);~~

~~(14) the distribution of an intravenous drug that, by its formulation, is intended for the replenishment of fluids and electrolytes, including sodium, chloride and potassium, or calories, including dextrose and amino acids;~~

~~(15) the distribution of an intravenous drug used to maintain the equilibrium of water and minerals in the body, such as dialysis solutions;~~

~~(16) the distribution of a drug that is intended for irrigation, or sterile water, whether intended for such purposes or for injection;~~

~~(17) the distribution of medical gas;~~

~~(18) facilitating the distribution of a product by providing solely administrative services, including processing of orders and payments;~~

~~(19) the transfer of a product by a hospital or other health care entity, or by a wholesale distributor or manufacturer operating under the direction of a hospital or other health care entity, to a repackager described in section 581(16)(B) and registered under section 510 of the food, drug and cosmetic act for the purpose of repackaging the drug for use by that hospital or other health care entity, or other health care entities under common control, if ownership of the drug remains with the hospital or other health care entity at all times; or~~

~~(13)(20) 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. 2. K.S.A. 2016 Supp. 65-1627 is hereby amended to read as follows: 65-1627. (a) The board may revoke, suspend, place in a proba-

tionary status or deny ~~a~~ *an application or renewal of any license of any pharmacist upon a finding that:*

(1) ~~The license was obtained by~~ *licensee has obtained, renewed or reinstated, or attempted to obtain, renew or reinstate, a license by false or fraudulent means, including misrepresentation of a material fact;*

(2) *the licensee has been convicted of a misdemeanor involving moral turpitude or gross immorality or any felony and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;*

(3) *the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency;*

(4) *the licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the profession of pharmacy;*

(5) *the licensee has violated a provision of the federal or state food, drug and cosmetic act, the uniform controlled substances act of the state of Kansas, or any rule and regulation adopted under any such act;*

(6) *the licensee is found by the board to have filled a prescription not in strict accordance with the directions of the practitioner or a mid-level practitioner;*

(7) *the licensee is found to be mentally or physically incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy;*

(8) *the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act;*

(9) *the licensee has failed to comply with the continuing education requirements of the board ~~relating to the continuing education of pharmacists~~ for license renewal;*

(10) *the licensee as a pharmacist in charge or consultant pharmacist under the provisions of ~~subsection (c) or (d) of K.S.A. 65-1648(c) or (d), and amendments thereto, has failed to comply with the requirements of subsection (c) or (d) of K.S.A. 65-1648(c) or (d), and amendments thereto;~~*

(11) *the licensee has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement;*

(12) *the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;*

(13) *the licensee has self-administered any controlled substance without a practitioner's prescription order or a mid-level practitioner's prescription order; or*

(14) *the licensee has assisted suicide in violation of K.S.A. 21-3406,*

prior to its repeal, or K.S.A. 2016 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 for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2016 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.

(C) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto; ~~or~~

(15) the licensee has failed to furnish the board, its investigators or its representatives any information legally requested by the board;

(16) *the licensee has violated or failed to comply with any lawful order or directive of the board; or*

(17) *the licensee has violated any of the provisions of the prescription monitoring program act of the state of Kansas or any rule and regulation of the board pursuant to the provisions of the prescription monitoring program act.*

(b) In determining whether or not the licensee has violated subsection (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion of such violation has authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. To determine whether reasonable suspicion of such violation exists, the investigative information shall be presented to the board as a whole. Information submitted to the board as a whole and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of pharmacy with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice pharmacy and who shall accept the privilege to practice pharmacy in this state by so practicing or by the making and filing of a renewal application to practice pharmacy in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug

screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.

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

(d) The board may suspend, revoke, place in a probationary status or deny a renewal of any retail dealer's permit issued by the board when information in possession of the board discloses that such operations for which the permit was issued are not being conducted according to law or the rules and regulations of the board. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(e) The board may revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that:

(1) Such pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the board have occurred in connection therewith;

(2) the owner or any pharmacist employed at such pharmacy is convicted, subsequent to such owner's acquisition of or such employee's employment at such pharmacy, of a violation of the pharmacy act or uniform controlled substances act of the state of Kansas, or the federal or state food, drug and cosmetic act;

(3) the owner or any pharmacist employed by such pharmacy has fraudulently claimed money for pharmaceutical services; or

(4) the registrant has had a registration revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering 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. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(f) A registration to manufacture or *repackage* drugs, to ~~distribute or operate as a wholesale drug distributor~~, to sell durable medical equipment or to *operate as a third-party logistics provider*, or a registration for the place of business where any such operation is conducted, may be suspended, revoked, placed in a probationary status or the renewal of

such registration may be denied by the board upon a finding that the registrant or the registrant's agent:

(1) Has materially falsified any application filed pursuant to or required by the pharmacy act of the state of Kansas;

(2) has been convicted of a felony under any federal or state law relating to the manufacture or distribution of drugs;

(3) has had any federal registration for the manufacture or distribution of drugs suspended or revoked;

(4) has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of K.S.A. 65-1629, and amendments thereto;

(5) has failed to keep, ~~or~~ has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas or by the board's rules and regulations; or

(6) has violated the pharmacy act of the state of Kansas or rules and regulations adopted by the state board of pharmacy under the pharmacy act of the state of Kansas ~~or~~, has violated the uniform controlled substances act or rules and regulations adopted by the state board of pharmacy under the uniform controlled substances act *or has violated a provision of the federal drug supply chain security act or any rule or regulation adopted under such act.* When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(g) Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

Sec. 3. K.S.A. 65-1633 is hereby amended to read as follows: 65-1633. Every pharmacist who changes residential address *or email address* shall within 30 days thereof ~~by letter~~ notify the ~~executive secretary of the board~~ of such change *on a form prescribed and furnished by the board*, and upon receipt of the notice the ~~executive secretary~~ shall make the proper alterations in the record kept for that purpose.

Sec. 4. K.S.A. 65-1635 is hereby amended to read as follows: 65-1635.

(a) Nothing contained in the pharmacy act of the state of Kansas shall prohibit any duly licensed practitioner from purchasing and keeping drugs, from compounding prescriptions or from administering, supplying or dispensing to such practitioner's patients such drugs as may be fit, proper and necessary. Except as provided in subsection (b) or (c), such drugs shall be dispensed by such practitioner and shall comply with the Kansas food, drug and cosmetic act and be subject to inspection as provided by law.

(b) Nothing contained in the pharmacy act of the state of Kansas shall

be construed to prohibit any nurse or other person, acting under the direction of a duly licensed practitioner, from administering drugs to a patient.

(c) Nothing contained in the pharmacy act of the state of Kansas shall be construed to prohibit any registered nurse, acting under the supervision of a person who is licensed to practice medicine and surgery as of July 1, 1982, from dispensing drugs to patients of such person so long as the principal office of such person is, and as of July 1, 1982, was, located in a city not having a registered pharmacy within its boundaries. For the purposes of this subsection (c), “supervision” means guidance and direction of the dispensing of drugs by the person licensed to practice medicine and surgery who shall be physically present in the general location at which the drugs are being dispensed.

(d) Nothing contained in the pharmacy act of the state of Kansas shall be construed to prohibit a duly registered ~~wholesaler~~ *wholesale distributor* from distributing a prescription-only drug pursuant to a veterinarian practitioner’s written prescription or order, where a valid veterinarian-client-patient relationship, VCPR, as defined in K.S.A. 47-816, and amendments thereto, exists, to the layman responsible for the control of the animal.

*(e) Nothing contained in the pharmacy act of the state of Kansas shall require an in-person examination or encounter between a person licensed to practice medicine and surgery and the patient prior to a pharmacist filling or refilling any prescription.*

Sec. 5. K.S.A. 2016 Supp. 65-1636 is hereby amended to read as follows: 65-1636. (a) Except as otherwise provided in this act, the sale and ~~distribution~~ *dispensing* of drugs shall be limited to pharmacies operating under registrations as required by this act, and the actual sale or ~~distribution~~ *dispensing* of drugs shall be made by a pharmacist or other persons acting under the immediate personal direction and supervision of the pharmacist.

(b) The donation, acceptance, transfer, distribution or dispensing of any drug in compliance with the provisions of the utilization of unused medications act and any rules and regulations promulgated thereunder shall not constitute a violation of this section.

Sec. 6. K.S.A. 2016 Supp. 65-1637 is hereby amended to read as follows: 65-1637. ~~In every store, shop or other place defined in this act as a “pharmacy” there shall be a pharmacist in charge and, except as otherwise provided by law, the compounding and dispensing of prescriptions shall be limited to pharmacists only. Except as otherwise provided by the pharmacy act of this state, when a pharmacist is not in attendance at a pharmacy, the premises shall be enclosed and secured. Prescription orders may be written, oral, telephonic or by electronic transmission unless prohibited by law. Blank forms for written prescription orders may~~



have two signature lines. If there are two lines, one signature line shall state: "Dispense as written" and the other signature line shall state: "Brand exchange permissible." Prescriptions shall only be filled or refilled in accordance with the following requirements:

(a) All prescriptions shall be filled in strict conformity with any directions of the prescriber, except:

(1) That a pharmacist may provide up to three-month supply of a prescription drug that is not a controlled substance or psychotherapeutic drug when a practitioner has written a drug order to be filled with a smaller supply but included sufficient numbers of refills for a three-month supply; and

(2) that a pharmacist who receives a prescription order for a brand name drug product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) The prescriber, in the case of a prescription signed by the prescriber and written on a blank form containing two signature lines, signs the signature line following the statement "dispense as written,"

(B) the prescriber, in the case of a prescription signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" on the prescription;

(C) the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated; or

(D) the federal food and drug administration has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication.

(b) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the physician shall bear the name of the person so telephoning. Nothing in this paragraph shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.

(c) (1) Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.

(2) A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount

judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a seven day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this subsection (c)(2) shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this subsection (c)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (c)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

(d) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.

(e) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.

(f) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.

Nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if in the pharmacist's professional judgment and discretion such pharmacist is of the opinion that it should not be filled or refilled. (a) The pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of any prescription order consistent with federal and state laws and rules and regulations. Except as provided in K.S.A. 65-1635(e), and amendments thereto, and as may otherwise be provided by law, a pharmacist shall not dispense a prescription drug if the pharmacist, in the exercise of professional judgment, determines that the prescription is not a valid prescription order.

(b) The prescriber may authorize an agent to transmit to the pharmacy a prescription order orally, by facsimile transmission or by electronic transmission, provided that the first and last names of the transmitting agent are included in the order.

(c)(1) A new written or electronically prepared and transmitted prescription order shall be manually or electronically signed by the pre-

scriber. If transmitted by the prescriber's agent, the first and last names of the transmitting agent shall be included in the order.

(2) If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy.

(3) An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to electronic transmission. An electronically prepared and transmitted prescription that is printed following electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

(4) The board is hereby authorized to conduct pilot projects related to any new technology implementation when deemed necessary and practicable, except that no state moneys shall be expended for such purpose.

(d) An authorization to refill a prescription order or to renew or continue an existing drug therapy may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent, and the first and last names of the transmitting agent are included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the refill order or renewal order differs in any manner from the original order, such as a change of the drug strength, dosage form or directions for use, the prescriber shall sign the order as provided by subsection (c)(1).

(e) Regardless of the means of transmission to a pharmacy, only a pharmacist or a pharmacist intern shall be authorized to receive a new prescription order from a prescriber or transmitting agent. A pharmacist, a pharmacist intern or a registered pharmacy technician may receive a refill or renewal order from a prescriber or transmitting agent if such registered pharmacy technician's supervising pharmacist has authorized that function.

(f) A refill is one or more dispensings of a prescription drug or device that results in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription order.

A prescription for a schedule III, IV or V controlled substance may authorize no more than five refills within six months following the date on which the prescription is issued.

(g) All prescriptions shall be filled or refilled in strict conformity with any directions of the prescriber, except that:

(1) A pharmacist who receives a prescription order for a brand name drug product, excluding a biological product, may exercise brand

exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) The prescriber, in the case of a prescription electronically signed by the prescriber, includes the statement “dispense as written” on the prescription;

(B) the prescriber, in the case of a written prescription signed by the prescriber, writes in the prescriber’s own handwriting “dispense as written” on the prescription;

(C) the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated; or

(D) the federal food and drug administration has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication;

(2) a pharmacist may provide up to a three-month supply of a prescription drug that is not a controlled substance or psychotherapeutic drug when a practitioner has written a drug order to be filled with a smaller supply but included sufficient numbers of refills for a three-month supply; or

(3) a pharmacist who receives a prescription order for a biological product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) The prescriber, in the case of a prescription signed by a prescriber and written on a blank form containing two signature lines, signs the signature line following the statement “dispense as written”;

(B) the prescriber, in the case of a prescription signed by the prescriber, writes in the prescriber’s own handwriting “dispense as written” on the prescription;

(C) the prescriber, in the case of a prescription other than the one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated; or

(D) the biological product is not an interchangeable biological product for the prescribed biological product.

(h) A pharmacist who selects an interchangeable biological product shall inform the patient or the patient’s representative that an interchangeable biological product has been substituted for the prescribed biological product.

(i) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled, except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.

(j) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original

*prescription to be dispensed by the pharmacist. This record, if telephoned by other than the prescriber, shall bear the full name of the person so telephoning. Nothing in this section shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.*

*(k) (1) Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order that is reduced promptly to writing and filled by the pharmacist.*

*(2) A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug, except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act, without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a seven-day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this paragraph shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this paragraph. A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this paragraph unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.*

*(l) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.*

*(m) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.*

*(n) Except as provided in K.S.A. 65-1635(e), and amendments thereto, and as may otherwise be provided by law, nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if, in the pharmacist's professional judgment and discretion, such pharmacist is of the opinion that it should not be filled or refilled.*

*(o) Within five business days following the dispensing of a biological*

*product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be conveyed by making an entry that is electronically accessible to the prescriber through:*

- (1) *An inter-operable electronic medical records system;*
- (2) *an electronic prescribing technology;*
- (3) *a pharmacy benefits management system; or*
- (4) *a pharmacy record.*
- (p) *Entry into an electronic records system as described in subsection (o) shall be presumed to provide notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission or other prevailing means, provided that communication shall not be required where:*
  - (1) *There is no FDA-approved interchangeable biological product for the product prescribed; or*
  - (2) *a refill prescription is not changed from the product dispensed on the prior filling of the prescription.*
- (q) *A pharmacist shall maintain a record of any biological product dispensed for at least five years.*
- (r) *The board shall maintain a link on its website to the current lists of all biological products that the FDA has determined to be interchangeable biological products.*

New Sec. 7. (a) An automated dispensing system shall be under the supervision of a pharmacist licensed in Kansas, who may be retained on a part-time basis and who shall be responsible for recordkeeping and storage of all drugs and verifying and documenting each prescription drug prepared or dispensed by such system.

(b) The board shall adopt such rules and regulations relating to automated dispensing systems as necessary for proper control and operation.

(c) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 8. K.S.A. 2016 Supp. 65-1642 is hereby amended to read as follows: 65-1642. (a) Each pharmacy shall be equipped with proper pharmaceutical utensils, in order that prescriptions can be properly filled and United States ~~pharmacopoeia~~ *pharmacopeia* and national formulary preparations properly compounded, and with proper sanitary appliances ~~which~~ *that* shall be kept in a clean and orderly manner. The board shall prescribe the minimum of such professional and technical equipment which a pharmacy shall at all times possess.

(b) Each pharmacy shall keep a suitable book or file ~~which~~ *that* records every prescription order filled at the pharmacy and a medication profile record system as provided under subsection (d). The book or file

of prescription orders shall be kept for a period of not less than five years. The book or file of prescription orders shall at all times be open to inspection by members of the board, the secretary of health and environment, the duly authorized agents or employees of such board or secretary and other proper authorities.

(c) (1) A medication profile record system shall be maintained in all pharmacies for persons for whom prescriptions are dispensed. The following information shall be recorded: (A) The name and address of the patient for whom the medication is intended; (B) the prescriber's name, the original date the prescription is dispensed and the number or designation identifying the prescription; (C) the name, strength and quantity of the drug dispensed and the name of the dispensing pharmacist; and (D) drug allergies and sensitivities.

(2) Upon receipt of a prescription order, the pharmacist shall examine the patient's medication profile record before dispensing the medication to determine the possibility of a harmful drug interaction or reaction to medication. Upon recognizing a potential harmful drug interaction or reaction to the medication, the pharmacist shall take appropriate action to avoid or minimize the problem—~~which~~ *that* shall, if necessary, include consultation with the prescriber with documentation of actions taken on the prescription record.

(3) A medication profile record shall be maintained for a period of not less than five years from the date of the last entry in the record.

(4) All prescription drug orders communicated by way of electronic transmission shall conform to federal and state laws and the provisions of the board's rules and regulations.

(d) No registration shall be issued or continued for the conduct of a pharmacy until or unless the provisions of this section have been complied with.

(e) *Each pharmacy shall comply with the requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq.*

Sec. 9. K.S.A. 2016 Supp. 65-1643 is hereby amended to read as follows: 65-1643. It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board:

(1) That the pharmacy for which the registration is sought will be con-

ducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; and (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) ~~For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety, and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety violate the federal drug supply chain security act, 21 U.S.C. § 351 et seq.~~

(c) For any person to distribute at wholesale any drugs without first obtaining a registration ~~so to do as a wholesale distributor~~ from the board.

(d) For any person to ~~sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale~~ *operate as a third-party logistics provider within this state without having first obtained a registration from the board.*

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection ~~(f)~~, for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by



the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in ~~subsection (dd)~~ of K.S.A. 65-1626(*hh*), and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a, and amendments thereto, and any rules and regulations adopted pursuant thereto.

(i) For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662, and amendments thereto, and any rules and regulations adopted pursuant thereto.

(j) For any person to sell or distribute in a pharmacy a controlled substance designated in ~~subsection (e) or (f)~~ of K.S.A. 65-4113(*e*) or (*f*), and amendments thereto, unless:

(1) (A) Such controlled substance is sold or distributed by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or clerk supervised by a licensed pharmacist;

(B) any person purchasing, receiving or otherwise acquiring any such controlled substance produces a photo identification showing the date of birth of the person and signs a log and enters in the log, or allows the seller to enter in the log, such person's address and the date and time of sale or allows the seller to enter such information into an electronic logging system pursuant to K.S.A. 2016 Supp. 65-16,102, and amendments thereto. The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer;

(C) the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and

(D) the seller enters in the log the name of the controlled substance and the quantity sold; or

(2) there is a lawful prescription.

(k) For any pharmacy to allow customers to have direct access to any controlled substance designated in ~~subsection (e) or (f)~~ of K.S.A. 65-4113(*e*) or (*f*), and amendments thereto. Such controlled substance shall

be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.

(l) A seller who in good faith releases information in a log pursuant to subsection (j) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

(m) For any person to sell or lease or offer for sale or lease durable medical equipment without first obtaining a registration from the board, in accordance with rules and regulations adopted by the board, except that this subsection shall not apply to:

(1) Sales not made in the regular course of the person's business; or

(2) sales by charitable organizations exempt from federal income taxation pursuant to the internal revenue code of 1986, as amended.

(n) *For any person to operate as an outsourcing facility within this state, or operate as an outsourcing facility outside of Kansas and ship, mail or deliver drugs into this state, without having first obtained a registration from the board.*

(o) *For any person to operate an automated dispensing system within this state without having first obtained a registration from the board.*

Sec. 10. K.S.A. 2016 Supp. 65-1645 is hereby amended to read as follows: 65-1645. (a) Application for registrations or permits under K.S.A. 65-1643, and amendments thereto, shall be made on a form prescribed and furnished by the board. Applications for registration ~~to distribute at wholesale any drugs~~ shall contain such information as may be required by the board in accordance with the provisions of K.S.A. 65-1655, and amendments thereto, *and sections 13 and 14, and amendments thereto.* The application shall be accompanied by the fee prescribed by the board under the provisions of this section. When such application and fees are received by the ~~executive secretary of the board~~ on or before the due date, such application shall have the effect of temporarily renewing the applicant's registration or permit until actual issuance or denial of the renewal. However, if at the time of filing a proceeding is pending before the board ~~which~~ *that* may result in the suspension, probation, revocation or denial of the applicant's registration or permit, the board may declare, by emergency order, that such application for renewal shall not have the effect of temporarily renewing such applicant's registration or permit. Separate applications shall be made and separate registrations or permits issued for each separate place at which is carried on any of the operations for which a registration or permit is required by K.S.A. 65-1643, and amendments thereto.

(b) The nonrefundable fees required for the issuing of the licenses, registrations or permits under the pharmacy act of the state of Kansas shall be fixed by the board as herein provided, subject to the following:

- (1) Pharmacy, new registration not more than \$150, renewal not more than \$125;
  - (2) pharmacist, new license by examination not more than \$350;
  - (3) pharmacist, reinstatement application fee not more than \$250;
  - (4) pharmacist, biennial renewal fee not more than \$200;
  - (5) pharmacist, evaluation fee not more than \$250;
  - (6) pharmacist, reciprocal licensure fee not more than \$250;
  - (7) pharmacist, penalty fee, not more than \$500;
  - (8) manufacturer, new registration not more than \$500, renewal not more than \$400;
  - (9) ~~wholesaler~~ *wholesale distributor*, new registration not more than \$500, renewal not more than \$400, except that a ~~wholesaler~~ *wholesale distributor* dealing exclusively in nonprescription drugs, the manufacturing, distributing or dispensing of which does not require registration under the uniform controlled substances act, shall be assessed a fee for registration and re-registration not to exceed \$50;
  - (10) special auction not more than \$50;
  - (11) samples distribution not more than \$50, renewal not more than \$50;
  - (12) institutional drug room, new registration not more than \$40, renewal not more than \$35;
  - (13) retail dealer selling more than 12 different nonprescription drug products, new permit not more than \$12, renewal not more than \$12;
  - (14) certification of grades for each applicant for examination and registration not more than \$25;
  - (15) veterinary medical teaching hospital pharmacy, new registration not more than \$40, renewal not more than \$35; ~~or~~
  - (16) durable medical equipment registration fee, not more than \$300, renewal not more than \$300;
  - (17) *third-party logistics provider*, new registration not more than \$500, renewal not more than \$400, except that a *third-party logistics provider* exclusively providing nonprescription drugs, the manufacturing, distributing or dispensing of which does not require registration under the uniform controlled substances act, shall be assessed a fee for registration and re-registration not to exceed \$50;
  - (18) *outsourcing facility*, new registration not more than \$500, renewal not more than \$400;
  - (19) *repackager*, new registration not more than \$500, renewal not more than \$400; or
  - (20) *automated dispensing system* registration fee, not more than \$40, renewal not more than \$35.
- (c) For the purpose of fixing fees, the board may establish classes of retail dealers' permits for retail dealers selling more than 12 different nonprescription drug products, and the board may fix a different fee for each such class of permit.

(d) The board shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall fix by rules and regulations the fees authorized for such year at the sum deemed necessary for such purposes. The fees fixed by the board under this section immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the board by rules and regulations as provided under this section.

(e) The board may deny renewal of any registration or permit required by K.S.A. 65-1643, and amendments thereto, on any ground ~~which~~ *that* would authorize the board to suspend, revoke or place on probation a registration or permit previously granted pursuant to the provisions of K.S.A. 65-1643, and amendments thereto. Registrations and permits issued under the provisions of K.S.A. 65-1643 and 65-1644, and amendments thereto, shall be conspicuously displayed in the place for which the registration or permit was granted. Such registrations or permits shall not be transferable. All such registrations and permits shall expire every year. The expiration date shall be established by rules and regulations adopted by the board. All registrations and permits shall be renewed annually. Notice of renewal of registrations and permits shall be ~~mailed~~ *sent* by the board to each registrant or permittee at least 30 days prior to expiration of the registration or permit. If application for renewal is not made prior to expiration, the existing registration or permit shall lapse and become null and void on the date of its expiration, and no new registration or permit shall be granted except upon payment of the required renewal fee plus a penalty equal to the renewal fee. Failure of any registrant or permittee to receive such notice of renewal shall not relieve the registrant or permittee from the penalty hereby imposed if the renewal is not made as prescribed.

(f) In each case in which a license of a pharmacist is issued or renewed for a period of time less than two years, the board shall prorate to the nearest whole month the license or renewal fee established pursuant to this section.

(g) The board may require that fees paid for any examination under the pharmacy act of the state of Kansas be paid directly to the examination service by the person taking the examination.

Sec. 11. K.S.A. 65-1648 is hereby amended to read as follows: 65-1648. (a) Any medical care facility pharmacy registered by the board may keep drugs in such facility and may supply drugs to its inpatients and outpatients. Distribution and control of prescription medications in a medical care facility pharmacy shall be under the supervision of a pharmacist in charge. A designated registered nurse or nurses or a licensed physician assistant approved by the pharmacist in charge and under the supervision of the pharmacist in charge shall be in charge of the distribution and control of drugs of a medical care facility pharmacy when a

pharmacist is not on the premises. Drugs supplied to outpatients when a pharmacist is not on the premises shall be limited to the quantity necessary until a prescription can be filled.

(b) Nothing contained in this act shall be construed as prohibiting an adult care home ~~which~~ *that* utilizes the services of a pharmacist, from maintaining an emergency medication kit approved by the adult care home's medical staff composed of a duly licensed practitioner and a pharmacist. The emergency medication kit shall be used only in emergency cases under the supervision and direction of a duly licensed practitioner, and a pharmacist shall have supervisory responsibility of maintaining said emergency medication kit.

(c) Every adult care home ~~which~~ *that* maintains an emergency medication kit under subsection (b) shall comply with the following requirements:

(1) Drugs in an emergency medication kit shall be maintained under the control of the pharmacist in charge of the pharmacy from which the kit came until administered to the patient upon the proper order of a practitioner.

(2) Drugs contained within the emergency medication kit may include controlled substances, but in such case a pharmaceutical services committee shall be responsible for specifically limiting the type and quantity of controlled substance to be placed in each emergency kit.

(3) Administration of controlled substances contained within the emergency medication kit shall be in compliance with the provisions of the uniform controlled substances act.

(4) The consultant pharmacist of the adult care home shall be responsible for developing procedures, proper control and accountability for the emergency medication kit and shall maintain complete and accurate records of the controlled substances, if any, placed in the emergency kit. Periodic physical inventory of the kit shall be required.

(d) (1) ~~The state~~ department of health and environment, any county, city-county or multicounty health department, indigent health care clinic, federally qualified health center and any private not-for-profit family planning clinic, when registered by the board, may keep drugs for the purpose of distributing drugs to patients being treated by that health department, indigent health care clinic, federally qualified health center or family planning clinic. Distribution and control of prescription medications in a health department, indigent health care clinic, federally qualified health center or family planning clinic shall be under the supervision of a pharmacist in charge. A designated registered nurse or nurses or a licensed physician assistant approved by the pharmacist in charge shall be in charge of distribution and control of drugs in the health department, indigent health care clinic, federally qualified health center or family planning clinic under the supervision of the pharmacist in charge when a pharmacist is not on the premises. Drugs supplied to patients when a

pharmacist is not on the premises shall be limited to the quantity necessary to complete a course of treatment as ordered by the practitioner supervising such treatment.

(2) The board shall adopt rules and regulations relating to specific drugs to be used, to recordkeeping and to storage of drugs by a health department, indigent health care clinic, federally qualified health center or family planning clinic as are necessary for proper control of drugs.

(3) *Any medical care facility pharmacy registered by the board shall comply with the applicable requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq.*

Sec. 12. K.S.A. 2016 Supp. 65-1655 is hereby amended to read as follows: 65-1655. (a) The board shall require an applicant for registration ~~to distribute at as a wholesale any drugs distributor~~ under K.S.A. 65-1643, and amendments thereto, or an applicant for renewal of such a registration, to provide the following information:

(1) The name, full business address and telephone number of the applicant;

(2) all trade or business names used by the applicant;

(3) addresses, telephone numbers, and the names of contact persons for all facilities used by the applicant for the storage, handling and distribution of prescription drugs;

(4) the type of ownership or operation of the applicant;

(5) the name of the owner or operator, or both, of the applicant, including:

(A) If a person, the name of the person;

(B) if a partnership, the name of each partner; and the name of the partnership;

(C) if a corporation, the name and title of each corporate officer and director, the corporate names and the name of the state of incorporation;

(D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity; and

(6) such other information as the board deems appropriate.

Changes in any information in this subsection ~~(a)~~ shall be submitted to the board as required by ~~such the board~~.

(b) In reviewing the qualifications for applicants for initial registration or renewal of registration ~~to distribute at as a wholesale any drugs distributor~~, the board shall consider the following factors:

(1) Any convictions of the applicant under any federal, state or local laws relating to drug samples, wholesale or retail drug distribution or distribution of controlled substances;

(2) any felony convictions of the applicant under federal or state laws;

(3) the applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;

(4) the furnishing by the applicant of false or fraudulent material in

any application made in connection with drug manufacturing or distribution;

(5) suspension or revocation by federal, state or local government of any license or registration currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;

(6) compliance with registration requirements under previously granted registrations, if any;

(7) compliance with requirements to maintain or make available to the board or to federal state or local law enforcement officials those records required by federal food, drug and cosmetic act; and rules and regulations adopted pursuant thereto; and

(8) any other factors or qualifications the board considers relevant to and consistent with the public health and safety.

(c) After consideration of the qualifications for applicants for registration ~~to distribute at as a wholesale any drugs distributor~~, the board may deny an initial application for registration or application for renewal of a registration if the board determines that the granting of such registration would not be in the public interest. The authority of the board under this subsection to deny a registration ~~to distribute at as a wholesale any drugs distributor~~ shall be in addition to the authority of the board under ~~subsection (e) of K.S.A. 65-1627(e), and amendments thereto, or subsection (e) of K.S.A. 65-1645(e), and amendments thereto.~~

(d) The board by rules and regulations shall require that personnel employed by persons registered ~~to distribute at as a wholesale any drugs distributor~~ have appropriate education or experience, or both, to assume responsibility for positions related to compliance with state registration requirements.

(e) The board by rules and regulations may implement this section to conform to any requirements of the federal ~~prescription drug marketing act of 1987 drug supply chain security act~~, 21 U.S.C. § ~~321 351~~ et seq., in effect on the effective date of this act.

(f) Each facility that engages in wholesale distribution must undergo an inspection by the board or a third party recognized by the board to inspect ~~and accredit~~ wholesale distributors for the purpose of inspecting the wholesale distribution operations prior to initial registration and periodically thereafter in accordance with a schedule to be determined by the board but not less than once every three years. ~~The board shall have the authority to waive registration requirements for wholesale distributors that are accredited by an accrediting agency approved by the board.~~ The board shall adopt rules and regulations to establish standards and requirements for the issuance and maintenance of a wholesale distributor registration, including inspections of wholesale distributor facilities domiciled in the state.

(1) Individual or third party inspectors must demonstrate to the board

that they have received training or demonstrate familiarity with the inspection standards. Evidence such as a letter of certification from a training program, notice from the inspector's employing third party organization or other means recognized by the board shall be accepted as meeting the requirement.

(2) The board may register a wholesale distributor that is licensed or registered under the laws of another state if:

(A) The requirements of that state are deemed by the board to be substantially equivalent; or

(B) the applicant is inspected ~~and accredited~~ by a third party recognized and approved by the board.

(g) A person licensed or approved by the ~~federal food and drug administration~~ *FDA* to engage in the manufacture of drugs or devices engaged in wholesale distribution need only satisfy the minimum federal requirements for licensure provided in ~~federal food and drug administration~~ *FDA* regulations 21 C.F.R. Part 205 to provide wholesale distribution services.

(h) The board by rule and regulation shall establish standards and requirements for the issuance and maintenance of a wholesale distributor registration, including, but not limited to, requirements regarding the following:

- (1) An application and renewal fee;
- (2) a surety bond;
- (3) registration and periodic inspections;
- (4) certification of a designated representative;
- (5) designation of a registered agent;
- (6) storage of drugs and devices;
- (7) handling, transportation and shipment of drugs and devices;
- (8) security;
- (9) examination of drugs and devices and treatment of those found to be unacceptable as defined by the board;
- (10) due diligence regarding other ~~wholesale distributors~~ *trading partners*;
- (11) creation and maintenance of records, including transaction records; ~~and~~

(12) procedures for operation; *and*

(13) *procedures for compliance with the requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq.*

(i) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 13. (a) The board shall require an applicant for registration to operate as a third-party logistics provider under K.S.A. 65-1643, and amendments thereto, or an applicant for renewal of such a registration, to provide the following information:



- (1) The name, full business address and telephone number of the applicant;
- (2) all trade or business names used by the applicant;
- (3) addresses, telephone numbers, and the names of contact persons for all facilities used by the applicant for the storage, handling and distribution of prescription drugs;
- (4) the type of ownership or operation of the applicant;
- (5) the name of the owner or operator, or both, of the applicant, including:
  - (A) If a person, the name of the person;
  - (B) if a partnership, the name of each partner, and the name of the partnership;
  - (C) if a corporation, the name and title of each corporate officer and director, the corporate names and the name of the state of incorporation;
  - (D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity; and
- (6) such other information as the board deems appropriate.

Changes in any information in this subsection shall be submitted to the board as required by the board.

(b) In reviewing the qualifications for applicants for initial registration or renewal of registration to operate as a third-party logistics provider, the board shall consider the following factors:

- (1) Any convictions of the applicant under any federal, state or local laws relating to drug samples, wholesale or retail drug distribution or distribution of controlled substances;
- (2) any felony convictions of the applicant under federal or state laws;
- (3) the applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;
- (4) the furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;
- (5) suspension or revocation by any federal, state or local government of any license or registration currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;
- (6) compliance with registration requirements under previously granted registrations, if any;
- (7) compliance with requirements to maintain or make available to the board or to federal state or local law enforcement officials those records required by the federal food, drug and cosmetic act, and rules and regulations adopted pursuant thereto; and
- (8) any other factors or qualifications the board considers relevant to and consistent with the public health and safety.

(c) After consideration of the qualifications for applicants for registration to operate as a third-party logistics provider, the board may deny

an initial application for registration or application for renewal of a registration if the board determines that the granting of such registration would not be in the public interest. The authority of the board under this subsection to deny a registration to operate a third-party logistics provider shall be in addition to the authority of the board under K.S.A. 65-1627(e) or 65-1645(e), and amendments thereto.

(d) The board by rules and regulations shall require that personnel employed by persons registered to operate as a third-party logistics provider have appropriate education or experience, or both, to assume responsibility for positions related to compliance with state registration requirements.

(e) The board by rules and regulations may implement this section to conform to any requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq., in effect on the effective date of this act.

(f) Each facility that operates as a third-party logistics provider must undergo an inspection by the board or a third party recognized by the board to inspect third-party logistics provider operations prior to initial registration and periodically thereafter in accordance with a schedule to be determined by the board, but not less than once every three years. The board shall adopt rules and regulations to establish standards and requirements for the issuance and maintenance of a third-party logistics provider registration, including inspections of third-party logistics provider facilities domiciled in the state.

(1) Individual or third-party inspectors must demonstrate to the board that they have received training or demonstrate familiarity with the inspection standards. Evidence, such as a letter of certification from a training program, notice from the inspector's employing third-party organization or other means recognized by the board shall be accepted as meeting the requirement.

(2) The board may register a third-party logistics provider that is licensed or registered under the laws of another state if:

(A) The requirements of that state are deemed by the board to be substantially equivalent; or

(B) the applicant is inspected by a third party recognized and approved by the board.

(g) A person licensed or approved by the FDA to engage in third-party logistics need only satisfy the minimum federal requirements for licensure provided in FDA regulations 21 C.F.R. part 205 to provide third-party logistics services.

(h) The board by rules and regulations shall establish standards and requirements for the issuance and maintenance of a third-party logistics provider registration, including, but not limited to, requirements regarding the following:

- (1) An application and renewal fee;
- (2) a surety bond;

- (3) registration and periodic inspections;
  - (4) certification of a designated representative;
  - (5) designation of a registered agent;
  - (6) storage of drugs and devices;
  - (7) handling, transportation and shipment of drugs and devices;
  - (8) security;
  - (9) examination of drugs and devices and treatment of those found to be unacceptable as defined by the board;
  - (10) due diligence regarding other trading partners;
  - (11) creation and maintenance of records, including transaction records;
  - (12) procedures for operation; and
  - (13) procedures for compliance with the requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq.
- (i) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 14. (a) The board shall require an applicant for registration as an outsourcing facility under K.S.A. 65-1643, and amendments thereto, or an applicant for renewal of such a registration, to provide the following information:

- (1) The name, full business address and telephone number of the applicant;
- (2) all trade or business names used by the applicant;
- (3) the type of ownership or operation of the applicant;
- (4) the name of the owner or operator, or both, of the applicant, including:
  - (A) If a person, the name of the person;
  - (B) if a partnership, the name of each partner, and the name of the partnership;
  - (C) if a corporation, the name and title of each corporate officer and director, the corporate names and the name of the state of incorporation;
  - (D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity;
- (5) a copy of the valid FDA registration as an outsourcing facility as required by 21 U.S.C. § 353b;
- (6) the name and license number of the pharmacist who is designated as the pharmacist-in-charge of the outsourcing facility;
- (7) a copy of a current inspection report resulting from an FDA inspection that indicates compliance with the requirements of the federal food, drug and cosmetic act, including guidance documents and current good manufacturing practices established by the FDA, or if no FDA inspection has been conducted within the prior two-year period, the outsourcing facility must undergo an inspection pursuant to subsection (e); and

(8) such other information as the board deems appropriate.

Changes in any information in this subsection shall be submitted to the board as required by the board.

(b) In reviewing the qualifications for applicants for initial registration or renewal of registration as an outsourcing facility, the board shall consider the following factors:

(1) Any convictions of the applicant under any federal, state or local laws relating to drug samples, wholesale or retail drug distribution or distribution of controlled substances;

(2) any felony convictions of the applicant under federal or state laws;

(3) the applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;

(4) the furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;

(5) suspension or revocation by any federal, state or local government of any license or registration currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;

(6) compliance with registration requirements under previously granted registrations, if any;

(7) compliance with requirements to maintain or make available to the board or to federal, state or local law enforcement officials those records required by the federal food, drug and cosmetic act, and rules and regulations adopted pursuant thereto; and

(8) any other factors or qualifications the board considers relevant to and consistent with the public health and safety.

(c) After consideration of the qualifications for applicants for registration as an outsourcing facility, the board may deny an initial application for registration or application for renewal of a registration if the board determines that the granting of such registration would not be in the public interest. The authority of the board under this subsection to deny a registration to operate as an outsourcing facility shall be in addition to the authority of the board under K.S.A. 65-1627(e) or 65-1645(e), and amendments thereto.

(d) The board by rules and regulations shall require that personnel employed by persons registered as an outsourcing facility have appropriate education or experience, or both, to assume responsibility for positions related to compliance with state registration requirements.

(e) Each outsourcing facility must undergo an inspection by the board or a third party recognized by the board for the purpose of inspecting operations prior to initial registration and periodically thereafter in accordance with a schedule to be determined by the board, but not less than once every three years. The board shall adopt rules and regulations to establish standards and requirements for the issuance and maintenance

of an outsourcing facility registration, including inspections of facilities domiciled in the state.

(f) The board by rules and regulations shall establish standards and requirements for the issuance and maintenance of an outsourcing facility registration, including, but not limited to, requirements regarding the following:

- (1) An application and renewal fee;
- (2) a surety bond;
- (3) registration and periodic inspections;
- (4) certification of a designated representative;
- (5) designation of a registered agent;
- (6) storage of drugs and devices;
- (7) handling, transportation and shipment of drugs and devices;
- (8) security;
- (9) examination of drugs and devices and treatment of those found to be unacceptable as defined by the board;
- (10) due diligence regarding other trading partners;
- (11) creation and maintenance of records, including transaction records; and
- (12) procedures for operation.

(g) Notwithstanding any other provision, no outsourcing facility may distribute or dispense any drug to any person pursuant to a prescription unless it is also registered as a pharmacy in this state and meets all other applicable requirements of federal and state law.

(h) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 15. K.S.A. 2016 Supp. 65-1663 is hereby amended to read as follows: 65-1663. (a) It shall be unlawful for any person to function as a pharmacy technician in this state unless such person is registered with the board as a pharmacy technician. *Every person registered as a pharmacy technician shall have graduated from an accredited high school or its equivalent, obtained a graduate equivalent diploma (GED) or be enrolled and in good standing in a high school education program.* Every person registered as a pharmacy technician shall pass one or more examinations identified and approved by the board within the period or periods of time specified by the board after becoming registered. The board shall adopt rules and regulations identifying the required examinations, when they must be passed and establishing the criteria for the required examinations and passing scores. The board may include as a required examination any national pharmacy technician certification examination. *The board shall adopt rules and regulations restricting the tasks a pharmacy technician may perform prior to passing any required examinations.*

(b) All applications for registration shall be made on a form to be

prescribed and furnished by the board. Each application for registration shall be accompanied by a registration fee fixed by the board by rule and regulation not to exceed \$50.

(c) The board shall take into consideration any felony conviction of an applicant, but such conviction shall not automatically operate as a bar to registration.

(d) Except as otherwise provided in this subsection, each pharmacy technician registration issued by the board shall expire every two years. The expiration date shall be established by rules and regulations adopted by the board. To provide for a system of biennial renewal of pharmacy technician registrations, the board may provide by rules and regulations that registrations issued or renewed may expire less than two years from the date of issuance or renewal. Each applicant for renewal of a pharmacy technician registration shall be made on a form prescribed and furnished by the board and shall be accompanied by a renewal fee fixed by the board by rule and regulation not to exceed \$25. Pharmacy technician registration renewal fees may be prorated for registration periods which are less than biennial in accordance with rules and regulations of the board. Except as otherwise provided in this subsection, the application for registration renewal, when accompanied by the renewal fee and evidence satisfactory to the board that the person has successfully complied with the rules and regulations of the board establishing the requirements for a program of continuing pharmacy technician education and received by the ~~executive secretary of the board~~ on or before the date of expiration of the registration, shall have the effect of temporarily renewing the applicant's registration until actual issuance or denial of the renewal registration. If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's registration. If the renewal fee is not paid prior to the expiration date of the renewal year, the registration is void.

(e) *Continuing pharmacy technician education requirements shall be fixed by the board at not more than 20 clock hours biennially of a program of continuing education approved by the board. Continuing education hours may be prorated for licensure periods that are less than biennial in accordance with rules and regulations of the board.*

(f) (1) The board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground, which would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

(2) The board may require a physical or mental examination, or both, of a person applying for or registered as a pharmacy technician.

(3) The board may temporarily suspend or temporarily limit the reg-

istration of any pharmacy technician in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of pharmacy technician functions would constitute an imminent danger to the public health and safety.

(4) Proceedings under this section shall be subject to the Kansas administrative procedure act.

~~(f)~~(g) Every registered pharmacy technician, within 30 days of obtaining new employment or ceasing employment as a pharmacy technician, shall ~~furnish~~ notify the ~~board's executive~~ secretary ~~notice~~ of the name and address of the new employer or cessation of employment.

(h) Every pharmacy technician who changes their residential address, email address or legal name shall, within 30 days thereof, notify the secretary of such change on a form prescribed and furnished by the board.

~~(e)~~(i) Each pharmacy shall at all times maintain a list of the names of pharmacy technicians employed by the pharmacy. A pharmacy technician shall work under the direct supervision and control of a pharmacist, and while on duty, shall wear a name badge or similar identification with the pharmacy technician's name and designation as a pharmacy technician. It shall be the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacy technician in the performance of the pharmacy technician's duties. The ratio of pharmacy technicians to pharmacists in the prescription area of a pharmacy shall be prescribed by the board by rule and regulation. Any change in the ratio of pharmacy technicians to pharmacists in the prescription area of the pharmacy must be adopted by a vote of no less than six members of the board.

~~(h)~~(j) ~~A person holding a~~ Every registered pharmacy technician registration shall display such the current registration in that part of the place of business in which such person is engaged in pharmacy technician activities.

(k) Every pharmacy technician registered after July 1, 2017, shall be required to pass a certified pharmacy technician examination approved by the board.

~~(i)~~(l) The board shall adopt such rules and regulations as are necessary to ensure that pharmacy technicians are adequately trained as to the nature and scope of their lawful duties.

~~(j)~~(m) The board may adopt rules and regulations as may be necessary to carry out the purposes and enforce the provisions of this act.

~~(k)~~(n) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 16. K.S.A. 2016 Supp. 65-1676 is hereby amended to read as follows: 65-1676. (a) It shall be unlawful for any person to function as a pharmacist intern in this state unless such person is registered with the board as a pharmacist intern.

(b) All applications for registration shall be made on a form to be prescribed and furnished by the board. Each application for registration shall be accompanied by a registration fee fixed by the board by rule and regulation not to exceed \$25.

(c) Each pharmacist intern registration issued by the board shall expire six years from the date of issuance.

(d) (1) The board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacist intern on any ground that would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

(2) The board may temporarily suspend or temporarily limit the registration of any pharmacist intern in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act, if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of pharmacist intern functions would constitute an imminent danger to the public health and safety.

(3) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(e) Every registered pharmacist intern, within 30 days of obtaining new employment, shall furnish the ~~board's executive~~ secretary notice of the name and address of the new employer.

(f) *Every pharmacist intern who changes their residential address, email address or legal name shall, within 30 days thereof, notify the secretary of such change on a form prescribed and furnished by the board.*

(g) Each pharmacy shall at all times maintain a list of the names of pharmacist interns employed by the pharmacy. A pharmacist intern shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacist intern is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacist intern in the performance of the pharmacist intern's duties.

~~(g)~~(h) A person holding a pharmacist intern registration shall display such registration in that part of the place of business in which such person is engaged in pharmacist intern activities.

~~(h)~~(i) The board shall adopt such rules and regulations as are necessary to ensure that pharmacist interns are adequately trained as to the nature and scope of their lawful duties. The board may adopt rules and



regulations as may be necessary to carry out the purposes of and enforce the provisions of this section.

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

New Sec. 17. (a) The board shall adopt rules and regulations governing proper compounding practices and distribution of compounded drugs by pharmacists and pharmacies.

(b) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 18. K.S.A. 65-669 is hereby amended to read as follows: 65-669. A drug or device shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing:

(1) The name and place of business of the manufacturer, the packer or the distributor, except that in the case of a prescription drug it shall bear the name and place of business of the person responsible for the production of the finished dosage form of the drug, the packer and the distributor; except that nothing in ~~clause (1) of this paragraph~~ shall be construed to apply to wholesalers and the requirement of ~~clause (1) this paragraph~~ shall be satisfied by stating such information on the label of the drug and filing a statement with such information with the secretary which shall be made available by the secretary on request to local, public and private health agencies, poison control centers, licentiates of the healing arts, the state board of pharmacy, consumers and others to promote the purposes of this act; in no event, however, shall the label contain less information than required under federal law; and

(2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, except that under ~~clause (2) of this paragraph~~ reasonable variations shall be permitted and exemptions as to small packages shall be allowed, in accordance with regulations prescribed by the secretary, or issued under the federal act.

(c) If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness ~~(, as compared with other words, statements, designs or devices, in the labeling)~~, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by ~~man~~ human and contains any quantity of narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, ~~which derivative that~~ has been by the secretary after investigation, found to be, and by regulations under this act, or by regulations issued pursuant to 21 U.S.C. § 352(d), desig-

nated as, habit forming, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement “warning-may be habit forming.”

(e) (1) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name, except the applicable systematic chemical name or the chemical formula; ~~(i)(A)~~ The established name, as defined in ~~subparagraph~~ *paragraph* (2), of the drug, if such there be; and ~~(ii)(B)~~ in case it is fabricated from two or more ingredients, the established name of each active ingredient, including the kind and quantity of proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The requirements for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall apply only to prescription drugs. To the extent that compliance with the requirements of ~~clause (ii) of this subparagraph~~ *subsection (e)(1)(B)* is impracticable, exemptions shall be allowed under regulations promulgated by the secretary, or under the federal act.

(2) As used in this ~~paragraph (e)~~ *subsection*, the term “established name,” with respect to a drug or ingredient thereof, means: (A) The applicable official name designated pursuant to 21 U.S.C. § 358; ~~or;~~ (B) if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium; or (C) if neither ~~clause subparagraph (A) nor clause subparagraph (B) of this subparagraph~~ applies, then the common or usual name, if any, of such drug or of such ingredient. Where ~~clause subparagraph (B) of this subparagraph~~ applies to an article recognized in the United States ~~pharmacopoeia~~ *pharmacopeia* and in the homeopathic pharmacopoeia under different official titles, the official title used in the United States ~~pharmacopoeia~~ *pharmacopeia* shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the homeopathic pharmacopoeia shall apply.

(f) Unless its labeling bears: (1) Adequate directions for use; and (2) such adequate warning against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form; as are necessary for the protection of users. Where any requirement of ~~clause paragraph (1) of this paragraph~~, as applied to any drug or device, is not necessary for the protection of the public health, the secretary shall promulgate regulations exempting such drug or device from such requirements. Articles exempted under regulations issued under 21 U.S.C. § 352(f) may also be exempt.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The method of packing may be modified with the consent of the secretary, or if consent is obtained under the federal act. Whenever a drug is recognized in both the United States ~~pharmacopoeia~~ *pharmacopoeia* and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States ~~pharmacopoeia~~ *pharmacopoeia* with respect to the packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States ~~pharmacopoeia~~ *pharmacopoeia*. In the event of inconsistency between the requirements of this ~~paragraph subsection~~ and those of ~~paragraph subsection~~ (e) as to the name by which the drug or its ingredients shall be designated, the requirements of ~~paragraph subsection~~ (e) shall prevail.

(h) If it has been found by the secretary or under the federal act to be a drug liable to deterioration, unless it is packed in such form and manner, and its label bears a statement of such precautions, as the regulations adopted by the secretary require as necessary for the protection of public health. No such regulations shall be established for any drug recognized in an official compendium until the secretary shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; ~~or~~ (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) If it is dangerous to health when used in the dosage, or with the frequency of duration prescribed, recommended, or suggested in the labeling thereof.

(k) If it is, ~~or~~ purports to be, or is represented as a drug composed wholly or partly of insulin, unless: (1) It is from a batch with respect to which a certificate or release has been issued pursuant to 21 U.S.C. § 356; and (2) such certificate or release is in effect with respect to such drug.

(l) If it is, ~~or~~ purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless: (1) It is from a batch with respect to which a certificate or release has been issued pursuant to 21 U.S.C. § 357; and (2) such certificate or release is in effect with respect to such drug. This paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under 21 U.S.C. § 357(c) or (d). For the purpose of this subsection the term “antibiotic drug” means any drug intended

for use by ~~man~~ *human* containing any quantity of any chemical substance ~~which that~~ is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution—(, including the chemically synthesized equivalent of any such substance).

(m) If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive, prescribed under the provisions of K.S.A. 65-667, *and amendments thereto*, or of the federal act.

(n) In the case of any prescription drug distributed or offered for sale in this state, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of: (1) The established name, as defined in subsection (e)(2) ~~of this section~~; (2) the formula showing quantitatively each ingredient of such drug to the extent required for labels under 21 U.S.C. § 352(e); and (3) such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations issued under the federal act.

(o) If a trademark, trade name or other identifying mark, imprint or device of another or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud.

(p) Drugs and devices ~~which that~~ are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed shall be exempt from any labeling or packaging requirements of this act if such drugs and devices are being delivered, manufactured, processed, labeled, repacked or otherwise held in compliance with regulations issued by the secretary or under the federal act.

(q) A drug intended for use by ~~man~~ *which (A) human that*: (1) Is a habit-forming drug to which K.S.A. 65-668, *and amendments thereto*, applies; or ~~(B)~~ (2) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or ~~(C)~~ (3) is limited by an approved application under 21 U.S.C. § 355 or K.S.A. 65-669a, *and amendments thereto*, to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only—~~(i)~~: (A) Upon a written prescription of a practitioner licensed by law to administer such drug or upon the written prescription of a mid-level practitioner as defined in ~~subsection (ii)~~ of K.S.A. 65-1626, and amendments thereto; or ~~(ii)~~: (B) upon an oral prescription of such practitioner or mid-level practitioner which is reduced promptly to writing and filed by the pharmacist; or ~~(iii)~~ (C) by refilling, any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by

oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in a drug being misbranded while held for sale.

(r) Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug or by filling or refilling a written or oral prescription of a mid-level practitioner as defined in ~~subsection (ii) of K.S.A. 65-1626, and amendments thereto,~~ shall be exempt from the requirements of this section, except subsections (a), (i)(2) and (3), (k), and (l), and the packaging requirements of subsections (g) and (h), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of ~~paragraph subsection (q) of this section.~~

(s) The secretary may, by regulation, remove drugs subject to subsection (d) ~~of this section and K.S.A. 65-669a, and amendments thereto,~~ from the requirements of ~~paragraph subsection (q) of this section~~ when such requirements are not necessary for the protection of the public health. Drugs removed from the prescription requirements of the federal act by regulations issued thereunder may also, by regulations issued by the secretary, be removed from the requirements of ~~paragraph subsection (q) of this section.~~

(t) A drug which is subject to ~~paragraph subsection (q) of this section~~ shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "caution: federal law prohibits dispensing without prescription," or "caution: state law prohibits dispensing without prescription." A drug to which ~~paragraph subsection (q) of this section~~ does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

(u) Nothing in this section shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or ~~which that~~ may hereafter be included within the classifications of narcotic drugs or marijuana as defined in the applicable federal and state laws relating to narcotic drugs and marijuana.

Sec. 19. K.S.A. 65-1660 is hereby amended to read as follows: 65-1660. (a) Except as otherwise provided in this section, the provisions of the pharmacy act of the state of Kansas shall not apply to dialysates, devices or drugs which are designated by the board for the purposes of this section relating to treatment of a person with chronic kidney failure

receiving dialysis and which are prescribed or ordered by a physician or a mid-level practitioner for administration or delivery to a person with chronic kidney failure if:

(1) The wholesale distributor is registered with the board and lawfully holds the drug or device; and

(2) the wholesale distributor: (A) Delivers the drug or device to: (i) A person with chronic kidney failure for self-administration at the person's home or specified address; (ii) a physician for administration or delivery to a person with chronic kidney failure; or (iii) a medicare approved renal dialysis facility for administering or delivering to a person with chronic kidney failure; and (B) has sufficient and qualified supervision to adequately protect the public health.

(b) The wholesale distributor pursuant to subsection (a) shall be supervised by a pharmacist consultant pursuant to rules and regulations adopted by the board.

(c) The board shall adopt such rules or regulations as are necessary to effectuate the provisions of this section.

(d) As used in this section, "physician" means a person licensed to practice medicine and surgery; "mid-level practitioner" means mid-level practitioner as such term is defined in ~~subsection (ii) of K.S.A. 65-1626,~~ and amendments thereto.

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

Sec. 20. K.S.A. 2016 Supp. 65-1669 is hereby amended to read as follows: 65-1669. As used in the utilization of unused medications act:

(a) "Adult care home" has the same meaning as such term is defined in K.S.A. 39-923, and amendments thereto.

(b) "Community mental health center" has the same meaning as such term is defined in ~~K.S.A. 75-3307e~~ 2016 Supp. 39-2002, and amendments thereto.

(c) "Donating entities" means adult care homes, mail service pharmacies, institutional drug rooms and medical care facilities who elect to participate in the program.

(d) "Drug" has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(e) "Federally qualified health center" means a center ~~which~~ that meets the requirements for federal funding under 42 U.S.C. § 1396d(1) of the public health service act, and amendments thereto, and ~~which~~ that has been designated as a "federally qualified health center" by the federal government.

(f) "Indigent health care clinic" has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

(g) "Institutional drug room" has the meaning as such term is defined in K.S.A. 65-1626~~(b)~~, and amendments thereto.

(h) “Mail service pharmacy” means a licensed Kansas pharmacy that ships, mails or delivers by any lawful means a lawfully dispensed medication in tamper-resistant packaging to residents of this state or another state.

(i) “Medical care facility” has the same meaning as such term is defined in K.S.A. 65-425, and amendments thereto.

(j) “Medically indigent” has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

(k) “Medication” means a prescription drug or drug as defined by this section.

(l) “Mid-level practitioner” has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(m) “Practitioner” has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(n) “Prescription drug” means a drug ~~which~~ *that* may be dispensed only upon prescription of a practitioner or mid-level practitioner authorized by law and ~~which~~ *that* is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the federal food, drug and cosmetic act, 52 Stat. 1040 (1938), 21 U.S.C.A. § 301.

(o) “Qualifying center or clinic” means an indigent health care clinic, federally qualified health center or community mental health center.

(p) “Samples of medications or injectables” means a unit of drug that is not intended to be sold and is intended to promote the sale of the drug.

Sec. 21. K.S.A. 2016 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 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 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 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 *state* 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~~ *that has* 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. 22. K.S.A. 2016 Supp. 65-4202 is hereby amended to read as follows: 65-4202. As used in this act: (a) “Board” means the ~~state~~ board of nursing.

(b) The “practice of mental health technology” means the performance, under the direction of a physician licensed to practice medicine and surgery or registered professional nurse, of services in caring for and treatment of the mentally ill, emotionally disturbed, or people with intellectual disability for compensation or personal profit, which services:

(1) Involve responsible nursing and therapeutic procedures for patients with mental illness or intellectual disability requiring interpersonal and technical skills in the observations and recognition of symptoms and reactions of such patients, the accurate recording of such symptoms and reactions and the carrying out of treatments and medications as prescribed by a licensed physician or a mid-level practitioner as defined in ~~subsection (ii) of~~ K.S.A. 65-1626, and amendments thereto; ~~and~~

(2) require an application of techniques and procedures that involve understanding of cause and effect and the safeguarding of life and health of the patient and others; and

(3) require the performance of duties that are necessary to facilitate rehabilitation of the patient or are necessary in the physical, therapeutic and psychiatric care of the patient and require close work with persons licensed to practice medicine and surgery, psychiatrists, psychologists, rehabilitation therapists, social workers, registered nurses, and other professional personnel.



(c) A “licensed mental health technician” means a person who lawfully practices mental health technology as defined in this act.

(d) An “approved course in mental health technology” means a program of training and study including a basic curriculum which shall be prescribed and approved by the board in accordance with the standards prescribed herein, the successful completion of which shall be required before licensure as a mental health technician, except as hereinafter provided.

Sec. 23. K.S.A. 65-7007 is hereby amended to read as follows: 65-7007. (a) Each regulated chemical distributor and retailer shall submit to the bureau:

(1) Any regulated transaction involving an extraordinary quantity of a regulated chemical, an uncommon method of payment or delivery, or any other circumstance that may indicate that the regulated chemical will be used in violation of this act.

(2) Any proposed regulated transaction with a person whose description or other identifying characteristic the bureau has previously furnished to the regulated chemical distributor or retailer.

(3) Any unusual or excessive loss or disappearance of a regulated chemical under the control of the regulated chemical distributor or retailer. The regulated person responsible for reporting a loss in-transit is the distributor.

(b) Each report submitted pursuant to subsection (a), whenever possible shall be made orally to the bureau at the earliest practicable opportunity after the regulated chemical distributor or retailer becomes aware of the circumstances involved and as much in advance of the conclusion of the transaction as possible. Written reports of these transactions shall subsequently be filed within 15 days after the regulated chemical distributor or retailer becomes aware of the circumstances of the event. A transaction may not be completed with a person whose description or identifying characteristics have previously been furnished to the regulated distributor by the bureau unless the transaction is approved by the bureau.

(c) This section shall not apply to any of the following:

(1) Any pharmacist, pharmacy or other authorized person who sells or furnishes a substance listed in ~~subsection (1) of K.S.A. 65-7003(1)~~, and amendments thereto, upon the prescription or order of a practitioner as defined under ~~subsection (x) of K.S.A. 65-1626~~, and amendments thereto;

(2) any practitioner as defined under ~~subsection (x) of K.S.A. 65-1626~~, and amendments thereto, who administers, dispenses or furnishes a substance listed in ~~subsection (1) of K.S.A. 65-7003(1)~~, and amendments thereto, to such patients within the scope of a practitioner’s professional practice. Such administration or dispensing shall be in the patient record;

(3) ~~any~~ sale, transfer, furnishing or receipt of any drug ~~which that~~

contains any substance listed in ~~subsection (1)~~ of K.S.A. 65-7003(1), and amendments thereto, and ~~which~~ *that* is lawfully sold, transferred or furnished over-the-counter without a prescription pursuant to the federal food, drug and cosmetic act or regulations adopted thereunder; and

(4) a regulated chemical retailer who only sells or distributes regulated chemicals that are nonprescription, over-the-counter medicines with less than three grams of base ingredient in the package in the following manner:

- (A) Blister packs of not more than two dosage units per blister;
- (B) liquid cold or cough medicines;
- (C) liquid cold or cough gel capsules; and
- (D) nasal drops or sprays.

Sec. 24. K.S.A. 65-669, 65-1633, 65-1635, 65-1648, 65-1660 and 65-7007 and K.S.A. 2016 Supp. 65-1626, 65-1627, 65-1636, 65-1637, 65-1642, 65-1643, 65-1645, 65-1655, 65-1663, 65-1669, 65-1676, 65-2837a and 65-4202 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 12, 2017.

Published in the *Kansas Register* April 20, 2017.

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## CHAPTER 35

### HOUSE BILL No. 2118

AN ACT concerning health care providers; relating to the health care provider insurance availability act; liability exceptions; provider exemptions; inactive provider coverage limits; inactive licensure of advanced practice registered nurses; amending K.S.A. 2016 Supp. 40-3401, 40-3408, 40-3424 and 65-1131 and repealing the existing sections.

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

New Section 1. (a) Notwithstanding any provision of article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, the fund shall in no event be liable for any claim against a health care provider if:

(1) The health care provider's liability for the incident giving rise to the claim is the result of professional services rendered as a charitable healthcare provider; or

(2) the health care provider's liability for the incident giving rise to the claim is covered under the federal tort claims act pursuant to chapter 171 of title 28 of the United States code.

(b) This section shall be part of and supplemental to the health care provider insurance availability act.

Sec. 2. K.S.A. 2016 Supp. 40-3401 is hereby amended to read as follows: 40-3401. As used in this act the following terms shall have the meanings respectively ascribed to them herein.

(a) “Applicant” means any health care provider.

(b) “Basic coverage” means a policy of professional liability insurance required to be maintained by each health care provider pursuant to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.

(c) “Commissioner” means the commissioner of insurance.

(d) “Fiscal year” means the year commencing on the effective date of this act and each year, commencing on the first day of July thereafter.

(e) “Fund” means the health care stabilization fund established pursuant to K.S.A. 40-3403(a), and amendments thereto.

(f) “Health care provider” means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the state of Kansas, a podiatrist licensed by the state board of healing arts, a health maintenance organization issued a certificate of authority by the commissioner, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed prior to January 1, 1988, and continuously thereafter under K.S.A. 75-3307b, and amendments thereto, or a mental health center or mental health clinic licensed by the state of Kansas. On and after January 1, 2015, “health care provider” also means a physician assistant licensed by the state board of healing arts, a licensed advanced

practice registered nurse who is authorized by the state board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a licensed advanced practice registered nurse who has been granted a temporary authorization by the state board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a nursing facility licensed by the state of Kansas, an assisted living facility licensed by the state of Kansas or a residential health care facility licensed by the state of Kansas. “Health care provider” does not include: (1) Any state institution for people with intellectual disability; (2) any state psychiatric hospital; (3) any person holding an exempt license issued by the state board of healing arts or the state board of nursing; (4) any person holding a visiting clinical professor license from the state board of healing arts; (5) any person holding an inactive license issued by the state board of healing arts; (6) any person holding a federally active license issued by the state board of healing arts; (7) an advanced practice registered nurse who is authorized by the state board of nursing to practice as an advanced practice registered nurse in the classification of nurse-midwife or nurse anesthetist and who practices solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who provides professional services as a charitable health care provider as defined under K.S.A. 75-6102, and amendments thereto; or (8) a physician assistant licensed by the state board of healing arts who practices solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who provides professional services as a charitable health care provider as defined under K.S.A. 75-6102, and amendments thereto.

(g) “Inactive health care provider” means a person or other entity who purchased basic coverage or qualified as a self-insurer on or subsequent to the effective date of this act but who, at the time a claim is made for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider, does not have basic coverage or self-insurance in effect solely because such person is no longer engaged in rendering professional service as a health care provider.

(h) “Insurer” means any corporation, association, reciprocal exchange, inter-insurer and any other legal entity authorized to write bodily injury or property damage liability insurance in this state, including workers compensation and automobile liability insurance, pursuant to the provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(i) “Plan” means the operating and administrative rules and procedures developed by insurers and rating organizations or the commissioner to make professional liability insurance available to health care providers.

(j) “Professional liability insurance” means insurance providing cov-

erage for legal liability arising out of the performance of professional services rendered or which should have been rendered by a health care provider.

(k) “Rating organization” means a corporation, an unincorporated association, a partnership or an individual licensed pursuant to K.S.A. 40-956, and amendments thereto, to make rates for professional liability insurance.

(l) “Self-insurer” means a health care provider who qualifies as a self-insurer pursuant to K.S.A. 40-3414, and amendments thereto.

(m) “Medical care facility” means the same when used in the health care provider insurance availability act as the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a medical care facility.

(n) “Mental health center” means a mental health center licensed by the state of Kansas under K.S.A. 75-3307b, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health center.

(o) “Mental health clinic” means a mental health clinic licensed by the state of Kansas under K.S.A. 75-3307b, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health clinic.

(p) “State institution for people with intellectual disability” means Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

(q) “State psychiatric hospital” means Larned state hospital, Osawatomie state hospital and Rainbow mental health facility.

(r) “Person engaged in residency training” means:

(1) A person engaged in a postgraduate training program approved by the state board of healing arts who is employed by and is studying at the university of Kansas medical center only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved by the dean of the school of medicine and the executive vice-chancellor of the university of Kansas medical center. Persons engaged in residency training shall be considered resident health care providers for purposes of K.S.A. 40-3401 et seq., and amendments thereto; and

(2) a person engaged in a postgraduate training program approved by

the state board of healing arts who is employed by a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine or who is employed by an affiliate of the university of Kansas school of medicine as defined in K.S.A. 76-367, and amendments thereto, only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved by the chief operating officer of the nonprofit corporation or the chief operating officer of the affiliate and the executive vice-chancellor of the university of Kansas medical center.

(s) “Full-time physician faculty employed by the university of Kansas medical center” means a person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center when such person is providing health care. *A person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center may also be employed part-time by the United States department of veterans affairs if such employment is approved by the executive vice-chancellor of the university of Kansas medical center.*

(t) “Sexual act” or “sexual activity” means that sexual conduct which constitutes a criminal or tortious act under the laws of the state of Kansas.

(u) “Board” means the board of governors created by K.S.A. 40-3403, and amendments thereto.

(v) “Board of directors” means the governing board created by K.S.A. 40-3413, and amendments thereto.

(w) “Locum tenens contract” means a temporary agreement not exceeding 182 days per calendar year that employs a health care provider to actively render professional services in this state.

(x) “Professional services” means patient care or other services authorized under the act governing licensure of a health care provider.

(y) “Health care facility” means a nursing facility, an assisted living facility or a residential health care facility as all such terms are defined in K.S.A. 39-923, and amendments thereto.

(z) “Charitable health care provider” means the same as defined in K.S.A. 75-6102, and amendments thereto.

Sec. 3. K.S.A. 2016 Supp. 40-3408 is hereby amended to read as follows: 40-3408. (a) The insurer of a health care provider covered by the fund or self-insurer shall be liable only for the first \$200,000 of a claim for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider, subject to an annual aggregate of \$600,000 for all such claims against the health care provider. However, if any liability insurance in excess of such amounts is applicable to any claim or would be applicable in the absence of this act,

any payments from the fund shall be excess over such amounts paid, payable or that would have been payable in the absence of this act.

(b) If any inactive health care provider has liability insurance in effect which is applicable to any claim or would be applicable in the absence of this act, any payments from the fund shall be excess over such amounts paid, payable or that would have been payable in the absence of this act.

(c) Notwithstanding anything in article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, an insurer that provides coverage to a health care provider may exclude from coverage any liability incurred by such provider:

(1) From the rendering of or the failure to render professional services by any other health care provider who is required by K.S.A. 40-3402, and amendments thereto, to maintain professional liability insurance in effect as a condition to rendering professional services as a health care provider in this state; or

(2) based upon or relating to the health care provider's sexual acts or activity, but in such cases the insurer may provide reasonable and necessary expenses for attorney fees incurred in defending against such claim. The insurer may recover all or a portion of such expenses for attorney fees if an adverse judgment is returned against the health care provider for damages resulting from the health care provider's sexual acts or activity.

(d) The fund shall not be liable for payment of any claim excluded by an insurer pursuant to this section or any claim otherwise excluded from coverage under a health care provider's professional liability insurance.

(e) *Notwithstanding any provision of article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, an insurer that provides coverage to a health care provider may exclude from coverage:*

(1) *Any liability incurred by such health care provider as a result of professional services rendered as a charitable health care provider; or*

(2) *any liability incurred by such health care provider that is covered under the federal tort claims act pursuant to chapter 171 of title 28 of the United States code.*

Sec. 4. K.S.A. 2016 Supp. 40-3424 is hereby amended to read as follows: 40-3424. (a) For all claims made on and after July 1, 2014, the amount of fund liability for a judgment or settlement against a resident or nonresident inactive health care provider shall be equal to the minimum professional liability insurance policy limits required pursuant to K.S.A. 40-3402, and amendments thereto, plus the level of coverage selected by the health care provider pursuant to ~~subsection (1)~~ of K.S.A. 40-3403(l), and amendments thereto, at the time of the incident giving rise to a claim. *The aggregate fund liability for all judgments and settlements*

*arising from all claims made in any fiscal year against a resident or non-resident inactive health care provider shall not exceed \$3,000,000 in any fiscal year.*

(b) This section shall be part of and supplemental to the health care provider insurance availability act.

Sec. 5. K.S.A. 2016 Supp. 65-1131 is hereby amended to read as follows: 65-1131. (a) (1) *Licensure*. Upon application to the board by any professional nurse in this state and upon satisfaction of the standards and requirements established by the board under K.S.A. 65-1130, and amendments thereto, the board may issue a license to such applicant authorizing the applicant to perform the duties of an advanced practice registered nurse as defined by the board under K.S.A. 65-1130, and amendments thereto.

(2) The board may issue a license to practice nursing as an advanced practice registered nurse to an applicant who has been duly licensed or certified as an advanced practice registered nurse under the laws of another state or territory if, in the opinion of the board, the applicant meets the licensure qualifications required of an advanced practice registered nurse in this state. Verification of the applicant's licensure or certification status shall be required from the original state of licensure or certification.

(3) An application to the board for a license, a license with temporary permit, renewal of a license and reinstatement of a license shall be upon such form and contain such information as the board may require and shall be accompanied by a fee, to be established by rules and regulations adopted by the board, to assist in defraying the expenses in connection with the issuance of licenses as advanced practice registered nurses, in an amount fixed by the board under K.S.A. 65-1118, and amendments thereto.

(4) An application for initial licensure or endorsement will be held awaiting completion of meeting qualifications for a time period specified in rules and regulations.

(5) The executive administrator of the board shall remit all moneys received pursuant to this section to the state treasurer as provided by K.S.A. 74-1108, and amendments thereto.

(b) The board may grant a one-time temporary permit to practice as an advanced practice registered nurse for a period of not more than 180 days pending completion of the application for a license.

(c) *Exempt license*. The board may issue an exempt license to any advanced practice registered nurse as defined in rules and regulations who makes written application for such license on a form provided by the board, who remits a fee as established pursuant to K.S.A. 65-1118, and amendments thereto, and who is not regularly engaged in advanced practice registered nursing in Kansas but volunteers advanced practice registered nursing services or is a charitable health care provider as defined



by K.S.A. 75-6102, and amendments thereto. Each exempt advanced practice registered nurse shall be subject to all provisions of the nurse practice act. Each exempt license may be renewed biennially subject to the provisions of this section. To convert an exempt license to an active license, the exempt advanced practice registered nurse shall meet all the requirements of subsection (a) or K.S.A. 65-1132, and amendments thereto. *An advanced practice registered nurse who has been granted an exempt license pursuant to this subsection shall be exempt from the requirements of K.S.A. 40-3402 and 40-3404, and amendments thereto.*

*(d) Inactive license. The board may issue an inactive license to any advanced practice registered nurse as defined in rules and regulations who makes written application for such license on a form provided by the board, who remits a fee as established pursuant to K.S.A. 65-1118, and amendments thereto, and who is not regularly engaged in advanced practice registered nursing in Kansas. 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. 65-1117 and 65-1132, and amendments thereto. An inactive license shall not entitle the holder to engage in advanced practice registered nursing in this state. Each inactive license may be renewed subject to the provisions of this section. An inactive licensee may apply for a license to regularly engage in advanced practice registered nursing upon filing a written reinstatement application with the board. The application shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-1118, and amendments thereto. An applicant for a license to practice as an advanced practice registered nurse who has not been licensed to practice advanced practice registered nursing for five years preceding application shall be required to successfully complete a refresher course as defined by the board. The board shall by rules and regulations establish appropriate continuing education requirements for inactive licensees to become licensed to regularly engage in advanced practice registered nursing in this state. An advanced practice registered nurse who has been granted an inactive license pursuant to this subsection shall be exempt from the requirements of K.S.A. 40-3402 and 40-3404, and amendments thereto.*

*(e) The board shall have authority to ~~write~~ adopt rules and regulations to carry out the provisions of this section.*

Sec. 6. K.S.A. 2016 Supp. 40-3401, 40-3408, 40-3424 and 65-1131 are hereby repealed.

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

Approved April 12, 2017.

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## CHAPTER 36

## HOUSE BILL No. 2006

AN ACT concerning counties; relating to the expansion of the board of county commissioners; amending K.S.A. 2016 Supp. 19-203 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 19-203 is hereby amended to read as follows: 19-203. (a) Subject to the provisions of K.S.A. 2016 Supp. 19-204b, and amendments thereto, when a vacancy occurs in the office of a member of the board of county commissioners, it shall be filled by appointment of a resident in the district to fill the office for the unexpired term and until a successor is elected and qualified. When a vacancy occurs before May 1 of the first even-numbered year following the commencement of a term of office, it shall be filled by the appointment of a resident of such district who shall serve until a successor is elected and qualified at the next general election. Such successor shall assume office on the second Monday of January next following such election.

(b) ~~Except as provided by subsection (e),~~ Appointments under this section shall be made in the manner provided by K.S.A. 25-3902, and amendments thereto, for filling vacancies in district offices.

(c) Subject to the provisions of K.S.A. 2016 Supp. 19-204b, and amendments thereto, vacancies created by an increase in the number of county commissioner districts in a county pursuant to K.S.A. 19-204, and amendments thereto, shall be filled by appointment of the governor. ~~The governor shall make such appointments within 30 days of the date of the adoption of the resolution dividing the county into commissioner districts or within 30 days of the date of the order of the district court dividing the county into commissioner districts as required by K.S.A. 19-204a, and amendments thereto. Such appointees~~ *at an election as provided in section 2, and amendments thereto.*

(d) ~~The candidate receiving the highest number of votes in each commission district shall serve until successors are elected and qualified at the next general election. Such successors shall assume office on the second Monday of January next following their election. If at the next general election following such appointments,~~ *the special election* more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two-year terms and until their successors are qualified. Thereafter such members shall be elected to four-year terms and until their successors are qualified. ~~The provisions of this subsection shall apply to positions created by an increase in the number of districts at the election held in November 1990 and all such elections thereafter.~~

New Sec. 2. (a) The governor, within five days of the board of county commissioners adopting a resolution dividing the county into the number

of districts approved by voters following the election expanding the size of the board of county commissioners as provided in K.S.A. 19-204(c), and amendments thereto, in consultation with the board of county commissioners, shall either: (1) Declare the election to be held at the next regularly scheduled general election; or (2) declare the date of the special election required under K.S.A. 19-203(c), and amendments thereto.

If the decision is to call a special election, the vacancy election shall be on a day not less than 75 days nor more than 90 days from the date of the board of county commissioners adopting such resolution.

(b) The county chairperson of each political party that has obtained official recognition shall call a convention for a date not less than 15 days and not more than 25 days after the governor’s declaration. Such party shall nominate a candidate to fill the vacancies that have occurred due to the expansion of the size of the board of county commissioners.

(c) Independent candidates may be nominated by petition of not less than 5% of the qualified electors within the county commission district. Any such petition shall be filed with the county election officer within 25 days of the governor’s declaration.

Sec. 3. K.S.A. 2016 Supp. 19-203 is hereby repealed.

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

Approved April 12, 2017.

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CHAPTER 37

HOUSE BILL No. 2043

AN ACT concerning insurance; relating to financial examination; requirements; amending K.S.A. 40-2912 and K.S.A. 2016 Supp. 12-2620 and 44-584 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 12-2620 is hereby amended to read as follows: 12-2620. (a) All certificates granted hereunder shall be perpetual unless sooner suspended or revoked by the commissioner or the attorney general.

(b) Whenever the commissioner shall deem it necessary the commissioner may make, or direct to be made, an examination of the affairs and the financial condition of any pool, ~~except that once every five years the commissioner shall conduct an examination of the affairs and the financial condition of each pool.~~ Each pool shall submit a certified independent audited financial statement no later than 150 days after the end of the fiscal year. The financial statement shall include outstanding re-

serves for claims and for claims incurred but not reported. Each pool shall file reports as to income, expenses and loss data at such times and in such manner as the commissioner shall require. Any pool which does not use rates developed by an approved rating organization shall file with the commissioner an actuarial certification that such rates are actuarially sound. Whenever it appears to the commissioner from such examination or other satisfactory evidence that the ability to pay current and future claims of any such pool is impaired, or that it is doing business in violation of any of the laws of this state, or that its affairs are in an unsound condition so as to endanger its ability to pay or cause to be paid claims in the amount, manner and time due, the commissioner shall, before filing such report or making the same public, grant such pool upon reasonable notice a hearing, and, if on such hearing the report be confirmed, the commissioner may require any of the actions allowed under K.S.A. 40-222b, and amendments thereto, or suspend the certificate of authority for such pool until its ability to pay current and future claims shall have been fully restored and the laws of the state fully complied with. The commissioner may, if there is an unreasonable delay in restoring the ability to pay claims of such pool and in complying with the law or if rehabilitation or corrective action taken under K.S.A. 40-222b, and amendments thereto, is unsuccessful, revoke the certificate of authority of such pool to do business in this state. Upon revoking any such certificate the commissioner shall communicate the fact to the attorney general, whose duty it shall be to commence and prosecute an action in the proper court to dissolve such pool or to enjoin the same from doing or transacting business in this state. The commissioner of insurance may call a hearing under K.S.A. 40-222b, and amendments thereto, and the provisions thereof shall apply to group-funded pools.

(c) On an annual basis, or within 30 days of any change thereto, each pool shall supply to the commissioner the name and qualifications of the designated administrator of the pools and the terms of the specific and aggregate excess insurance contracts of the pool.

Sec. 2. K.S.A. 40-2912 is hereby amended to read as follows: 40-2912. The association shall be deemed a company or insurer within the scope of ~~K.S.A. 40-222 and 40-223~~ relating to examinations *subject to examination and regulation by the commissioner*. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

Sec. 3. K.S.A. 2016 Supp. 44-584 is hereby amended to read as follows: 44-584. (a) The application for a new certificate shall be signed by the trustees of the trust fund created by the pool. Any application for a renewal of an existing certificate shall meet at least the standards established in ~~subsections (a)(6) through (a)(14)~~ of K.S.A. 44-582(a)(6) *through (a)(14)*, and amendments thereto. After evaluating the application the

commissioner shall notify the applicant that the plan submitted is approved or conversely, if the plan submitted is inadequate, the commissioner shall then fully explain to the applicant what additional requirements must be met. If the application is denied, the applicant shall have 15 days to make an application for hearing by the commissioner after service of the denial notice. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) An approved certificate of authority shall remain in full force and effect until such certificate is suspended or revoked by the commissioner. An existing pool operating under an approved certificate of authority must file with the commissioner, within 120 days following the close of the pool's fiscal year, a current financial statement on a form approved by the commissioner showing the financial ability of the pool to meet its obligations under the worker compensation act and confirmation of specific and aggregate excess insurance as required by law for the pool. If an existing pool's certificate of authority is suspended or revoked, such pool shall have the same rights to a hearing by the commissioner as for applicants for new certificates of authority as set forth in subsection (a) above.

(c) Whenever the commissioner shall deem it necessary the commissioner may make, or direct to be made, an examination of the affairs and financial condition of any pool ~~in accordance with K.S.A. 40-222 and 40-223, and amendments thereto, except that once every five years the commissioner shall conduct an examination of the affairs and financial condition of each pool.~~ Each pool shall submit a certified independent audited financial statement no later than 150 days after the end of the pool's fiscal year. The financial statement shall include outstanding reserves for claims and for claims incurred but not reported. Each pool shall file payroll records, accident experience and compensation reports and such other reports and statements at such times and in such manner as the commissioner shall require. Whenever it appears to the commissioner from such examination or other satisfactory evidence that the solvency of any such pool is impaired, or that it is doing business in violation of any of the laws of this state, or that its affairs are in an unsound condition so as to endanger its ability to pay or cause to be paid the compensation in the amount, manner and time due as provided for in the Kansas workers compensation act, the commissioner shall, before filing such report or making the same public, grant such pool upon reasonable notice a hearing in accordance with the provisions of the Kansas administrative procedure act, and, if on such hearing the report be confirmed, the commissioner shall suspend the certificate of authority for such pool until its solvency shall have been fully restored and the laws of the state fully complied with. The commissioner may, if there is an unreasonable delay in restoring the solvency of such pool and in complying with the law, revoke the certificate of authority of such pool to do business in this state. Upon revoking any such certificate the commissioner shall com-

municate the fact to the attorney general, whose duty it shall be to commence and prosecute an action in the proper court to dissolve such pool or to enjoin the same from doing or transacting business in this state. The commissioner of insurance may call a hearing under K.S.A. 40-222b, and amendments thereto, and the provisions shall apply to group workers compensation pools.

Sec. 4. K.S.A. 40-2912 and K.S.A. 2016 Supp. 12-2620 and 44-584 are hereby repealed.

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

Approved April 12, 2017.

Published in the *Kansas Register* April 20, 2017.

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## CHAPTER 38

### HOUSE BILL No. 2094

AN ACT concerning municipalities; concerning contracts; dealing with the interlocal cooperation act; amending K.S.A. 12-2908 and K.S.A. 2016 Supp. 12-2904 and repealing the existing sections.

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

Section 1. K.S.A. 12-2908 is hereby amended to read as follows: 12-2908. (a) When used in this act, “municipality” means a city, county ~~or~~, township, *school district, library district, road district, water district, drainage district, sewer district, fire district, park and recreation district, recreation commission, any other political or taxing subdivision of the state or instrumentality thereof, or any other authority, commission, agency, quasi-municipal corporation created under the laws of the state.*

(b) Any municipality may contract with any municipality to perform any governmental service, activity or undertaking which each contracting municipality is authorized by law to perform. The contract shall be authorized by the governing body of the municipality and shall state the purpose of the contract and the powers and duties of the parties thereunder.

(c) A contract entered into pursuant to this section shall not be regarded as an interlocal agreement under the provisions of K.S.A. 12-2901 et seq., and amendments thereto.

Sec. 2. K.S.A. 2016 Supp. 12-2904 is hereby amended to read as follows: 12-2904. (a) Subject to the limitations of subsection (g), any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state including but not limited to those functions relating to economic development, public improvements, public utilities,

police protection, public security, public safety and emergency preparedness, including but not limited to, intelligence, antiterrorism and disaster recovery, libraries, data processing services, educational services, building and related inspection services, flood control and storm water drainage, weather modification, sewage disposal, refuse disposal, park and recreational programs and facilities, ambulance service, fire protection, the Kansas tort claims act or claims for civil rights violations, may be exercised and enjoyed jointly with any other public agency of this state or with any private agency, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public or private agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

(b) Any public agency may enter into agreements with one or more public or private agencies for joint or cooperative action pursuant to the provisions of this act. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(c) Any public agency may enter into agreements with Native American Indian tribes for joint or cooperative actions. Such agreements shall be considered to be an interlocal agreement and shall be subject to the procedures and limitations of the interlocal cooperation act.

The provisions of this subsection shall not be construed as authorizing a public agency to enter into a gaming compact pursuant to the interlocal cooperation act.

(d) Any such agreement shall specify the following:

(1) Its duration.

(2) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto.

(3) Its purpose or purposes.

(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor.

(5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

(6) Any other necessary and proper matters.

(e) In addition to the requirements of subsection (d), if the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement also shall contain the following:

(1) Provision for an administrator or a joint board or one of the participating public agencies to be responsible for administering the joint or

cooperative undertaking. In the case of a joint board public agencies party to the agreement shall be represented.

(2) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

(f) No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, such performance may be offered in satisfaction of the obligation or responsibility.

(g) Every agreement made hereunder, except: (1) Agreements between two or more public agencies establishing a council or other organization of local governments for the study of common problems of an area or region and for the promotion of intergovernmental cooperation; and (2) *agreements entered into regarding joint or cooperative action that are subject to the oversight and regulation of a Kansas regulatory agency*, prior to and as a condition precedent to its entry into force, shall be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. The attorney general shall approve any agreement submitted hereunder unless the attorney general shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public and private agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 90 days of its submission shall constitute approval thereof.

Sec. 3. K.S.A. 12-2908 and K.S.A. 2016 Supp. 12-2904 are hereby repealed.

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

Approved April 12, 2017.

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## CHAPTER 39

### HOUSE BILL No. 2140\*

AN ACT concerning firefighting; relating to interstate compacts;  
great plains interstate fire compact.

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

Section 1. The governor of Kansas may execute a compact on behalf of the state with any one or more states who may, by their legislative bodies, authorize a compact, in form substantially as follows:



## ARTICLE I

The purpose of this compact is to promote effective prevention and control of forest fires in the great plains region of the United States by the maintenance of adequate forest fire fighting services by the member states, and by providing for reciprocal aid in fighting forest fires among the compacting states of the region, including South Dakota, North Dakota, Wyoming, Colorado and any adjoining state of a current member state.

## ARTICLE II

This compact is operative immediately as to those states ratifying it if any two or more of the member states have ratified it.

## ARTICLE III

In each state, the state forester or officer holding the equivalent position, who is responsible for forest fire control, may act as compact administrator for that state and may consult with like officials of the other member states and may implement cooperation between the states in forest fire prevention and control. The compact administrators of the member states may organize to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact. Each member state may formulate and put into effect a forest fire plan for that state.

## ARTICLE IV

If the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling, or preventing forest fires, the state forest fire control agency of that state may render all possible aid to the requesting agency, consonant with the maintenance of protection at home.

## ARTICLE V

If the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of the state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges, and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact is liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection with rendering the outside aid.

All liability, except as otherwise provided in this compact, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in

connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall, subject to appropriations, be reimbursed by the member state receiving the aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with such request. However, nothing in this compact prevents any assisting member state from assuming such loss, damage, expense, or other cost or from loaning such equipment or from donating such services to the receiving member state without charge or cost.

Each member state shall assure that workers compensation benefits in conformity with the minimum legal requirements of the state are available to all employees and contract firefighters sent to a requesting state pursuant to this compact.

For the purposes of this compact the term, employee, includes any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws of the aiding state.

The compact administrators may formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

#### ARTICLE VI

Ratification of this compact does not affect any existing statute so as to authorize or permit curtailment or diminution of the forest fire fighting forces, equipment, services, or facilities of any member state.

Nothing in the compact authorizes or permits any member state to curtail or diminish its forest fire fighting forces, equipment, services, or facilities. Each member state shall maintain adequate forest fire fighting forces and equipment to meet demands for forest fire protection within its borders in the same manner and to the same extent as if this compact were not operative.

Nothing in this compact limits or restricts the powers of any state ratifying the compact to provide for the prevention, control, and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules, or regulations intended to aid in the prevention, control, and extinguishment in the state.

Nothing in this compact affects any existing or future cooperative relationship or arrangement between the United States forest service and a member state or states.

#### ARTICLE VII

Representatives of the United States forest service may attend meetings of the compact administrators.

ARTICLE VIII

The provisions of Articles IV and V of this compact that relate to reciprocal aid in combating, controlling, or preventing forest fires are operative as between any state party to this compact and any other state which is party to this compact and any other state that is party to a regional forest fire protection compact in another region if the legislature of the other state has given its assent to the mutual aid provisions of this compact.

ARTICLE IX

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the governor of the state takes action to withdraw from the compact. Such action is not effective until six months after notice of the withdrawal has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

Sec. 2. A volunteer firefighter entitled to benefits under the workers compensation act who is engaged by the state of Kansas under the compact pursuant to section 1, and amendments thereto, shall be deemed to be an employee of the state of Kansas solely for purposes of the workers compensation act.

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

Approved April 12, 2017.

Published in the *Kansas Register* April 20, 2017.

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CHAPTER 40

HOUSE BILL No. 2137

AN ACT concerning cities and counties; dealing with certain volunteer activities of governing body members; amending K.S.A. 19-205 and repealing the existing section.

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

Section 1. K.S.A. 19-205 is hereby amended to read as follows: 19-205. (a) Except as provided by K.S.A. 12-344, ~~and 12-345, and amendments thereto, and K.S.A. 2007-2016 Supp. 12-363 and 12-365, and amendments thereto,~~ no person holding any state, county, township or city office shall be eligible to the office of county commissioner in any county in this state.

(b) Nothing in this section shall prohibit the appointment of any county commissioner to any state board, committee, council, commission or similar body which is established pursuant to statutory authority, so

long as any county commissioner so appointed is not entitled to receive any pay, compensation, subsistence, mileage or expenses for serving on such body other than that which is provided by law to be paid in accordance with the provisions of K.S.A. 75-3223, and amendments thereto.

(c) *Any county commissioner may serve as a volunteer in any capacity for an emergency medical service or ambulance service or as a volunteer fire fighter and may receive the usual compensation or other remuneration for such volunteer services.*

New Sec. 2. A member of a city governing body may serve as a volunteer in any capacity for an emergency medical service or ambulance service or as a volunteer fire fighter and may receive the usual compensation or other remuneration for such volunteer services.

Sec. 3. K.S.A. 19-205 is hereby repealed.

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

Approved April 12, 2017.

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## CHAPTER 41

Senate Substitute for HOUSE BILL No. 2304

AN ACT concerning child care facilities; relating to infant sleeping equipment and sleeping areas; individuals maintaining or residing, working or volunteering in such facilities; background checks; amending K.S.A. 2016 Supp. 65-508 and 65-516 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, safety and welfare of any woman or child.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary for children and families shall develop and adopt rules and regulations for the operation and maintenance of maternity centers

and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after-hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.

(d) *In addition to any rules and regulations adopted under this section for safe sleep practices, child care facilities shall ensure that all of the following requirements are met for children under 12 months of age:*

(1) *A child shall only be placed to sleep on a surface and in an area that has been approved for use as such by the secretary of health and environment;*

(2) *the sleep surface shall be free from soft or loose bedding, including, but not limited to, blankets, bumpers and pillows; and*

(3) *the sleep surface shall be free from toys, including mobiles and other types of play equipment or devices.*

(e) *Child care facilities shall ensure that children over 12 months of age only be placed to sleep on a surface and in an area that has been approved for use as such by the secretary of health and environment.*

(f) *The secretary of health and environment may exercise discretion to make exceptions to requirements in subsections (d) and (e) where special health needs exist.*

(g) Each child cared for in a child care facility, including children of

the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

~~(e)~~*(h)* The immunization requirement of subsection ~~(d)~~ *(g)* shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

Sec. 2. K.S.A. 2016 Supp. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a child care facility if, there resides, works or regularly volunteers any person who in this state or in other states or the federal government:

(1) (A) ~~Has a felony conviction for~~ *been convicted of a crime against persons that is classified as a person felony under the Kansas criminal code;*

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

(C) ~~has a conviction~~ *been convicted of any act which that* 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. 2016 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, ~~or a conviction~~ *been convicted of an attempt* under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2016 Supp. 21-5301, and amendments thereto, to commit any such act ~~or a conviction~~ *been convicted of conspiracy* under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2016 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of ~~other states~~ *any other state* or the federal government; ~~or~~

(D) has been convicted of any act ~~which that~~ is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2016 Supp. 21-6401, and amendments thereto, or similar statutes of ~~other states~~ *any other state* or the federal government; *or*

(E) *has been convicted of any act that is described in K.S.A. 21-3718 or 21-3719, prior to their repeal, or K.S.A. 2016 Supp. 21-5812, and amendments thereto, or similar statutes of any other state or the federal government;*

(2) *has been adjudicated a juvenile offender because of having committed an act—~~which that~~ if done by an adult would constitute the commission of a felony and—~~which that~~ 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 article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or similar statutes of—~~other states~~ any other state 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. 2016 Supp. 21-6401, and amendments thereto, or similar statutes of—~~other states~~ any other state or the federal government;*

(3) *has been convicted or adjudicated of a crime that requires registration as a sex offender under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a sex offender in any other state or as a sex offender on the national sex offender registry;*

~~(3)~~(4) *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. 2016 Supp. 38-2226, and amendments thereto, or any similar child abuse and neglect registries maintained by any other state or the federal government and:*

(A) *The person has failed to successfully complete a corrective action plan—~~which that~~ had been deemed appropriate and approved by the Kansas department for children and families; or requirements of similar entities in any other state or the federal government; or*

(B) *the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families or similar entities in any other state or the federal government;*

~~(4)~~(5) *has had a child removed from home based on a court order pursuant to K.S.A. 2016 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 approved by the department of health and environment;*

~~(5)~~(6) *has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2016 Supp. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;*

~~(6)~~(7) *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. 2016 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or

~~(7)~~(8) has an infectious or contagious disease.

(b) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

(c) Any person who resides in a child care facility and who has been found to be in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of investigation and any report of investigations as authorized by K.S.A. 2016 Supp. 38-2226, and amendments thereto, in the possession of the Kansas department for children and families or court of this state concerning persons working, regularly volunteering or residing in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.

(e) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on persons residing, working or regularly volunteering in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history record check to determine such person's fitness to reside, work or regularly volunteer in a child care facility.

(f) The secretary shall notify the child care applicant or licensee, within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in ~~subsection~~ subsections (a)(1) through ~~(7)~~ (8) with regard to the person who is the subject of the review.

(g) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the pro-



visions of this section if such home acts in good faith to comply with this section.

(h) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:

(1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and

(2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.

(i) In regard to Kansas issued criminal history records:

(1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.

(2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.

(3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.

(4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history on record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.

(5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to:

(A) The person who is the subject of the request for information;

(B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;

(C) the department of health and environment;

(D) the Kansas department for children and families;

(E) the ~~juvenile justice authority~~ *department of corrections*; and

(F) the courts.

(6) A violation of the provisions of subsection (i)(5) shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.

(j) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may

exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any person who was maintaining a day care facility on the day immediately prior to July 1, 2010, or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.

Sec. 3. K.S.A. 2016 Supp. 65-508 and 65-516 are hereby repealed.

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

Approved April 12, 2017.

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## CHAPTER 42

Senate Substitute for HOUSE BILL No. 2174

AN ACT concerning motor vehicles; relating to registration, decals for persons with disabilities; distinctive license plates; decals for certain military medals or badges; amending K.S.A. 8-1,126 and K.S.A. 2016 Supp. 8-1,125 and 8-1,156 and repealing the existing sections.

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

New Section 1. (a) On and after January 1, 2018, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one autism awareness license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by autism hope for families, inc., or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The board of directors of autism hope for families, inc., may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support autism hope for families, inc. Any motor vehicle owner or lessee annually may apply to autism hope for families, inc., for use of such logo. Upon annual application and payment to either: (1) Autism hope for families, inc., in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each such license plate to be issued, autism hope for families, inc., shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by autism hope for families, inc. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer autism awareness license plates from a leased motor vehicle to a purchased motor vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A. 8-132(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment established by autism hope for families, inc. If such statement is not presented at the time of registration or faxed by autism hope for families, inc., or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) Autism hope for families, inc., shall provide to all county treasurers a toll-free telephone number where applicants can call autism hope for families, inc., for information concerning the application process or the status of such applicant's license plate application.

(h) As a condition of receiving the autism awareness license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to autism hope for families, inc., and the state treasurer.

(i) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the autism awareness royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the autism awareness royalty fund shall be made in accordance with appropriation acts upon warrants

of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the autism awareness royalty fund to the appropriate designee of autism hope for families, inc., shall be made on a monthly basis.

New Sec. 2. (a) On and after January 1, 2018, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one Kansas 4-H foundation license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the Kansas 4-H foundation, inc. or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas 4-H foundation, inc. may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any royalty payment received pursuant to this section shall be used to support the Kansas 4-H foundation, inc. Any motor vehicle owner or lessee annually may apply to the Kansas 4-H foundation, inc. for use of such logo. Upon annual application and payment to either: (1) The Kansas 4-H foundation, inc. in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each such license plate to be issued, the Kansas 4-H foundation, inc. shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the Kansas 4-H foundation, inc. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer Kansas 4-H foundation license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually,

upon payment of the fee prescribed in subsection (a), in the manner prescribed in K.S.A. 8-132(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment established by the Kansas 4-H foundation, inc. If such statement is not presented at the time of registration or faxed by the Kansas 4-H foundation, inc., or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas 4-H foundation, inc. shall provide to all county treasurers an electronic mail address where applicants can contact the Kansas 4-H foundation, inc. for information concerning the application process or the status of such applicant's license plate application.

(h) As a condition of receiving the Kansas 4-H foundation license plate and any subsequent registration renewal of such license plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas 4-H foundation, inc. and the state treasurer.

(i) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas 4-H foundation royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the Kansas 4-H foundation royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the Kansas 4-H foundation royalty fund to the appropriate designee of the Kansas 4-H foundation, inc. shall be made on a monthly basis.

Sec. 3. On and after January 1, 2018, K.S.A. 2016 Supp. 8-1,125 is hereby amended to read as follows: 8-1,125. (a) Any Kansas resident who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person is a person with a disability or is responsible for the transportation of a person with a disability shall be issued a special license plate or a permanent placard for any motor vehicle owned by such person or shall be issued a temporary placard. Satisfactory proof of disability, condition or impairment shall include a statement from a person licensed to practice the healing arts in any state, a licensed optometrist, an advanced practice registered nurse licensed under K.S.A.

65-1131, and amendments thereto, a licensed physician assistant or a Christian Science practitioner listed in The Christian Science Journal certifying that such person is a person with a disability. The placard shall be suspended immediately below the rear view mirror of any motor vehicle used for the transportation of a person with a disability so as to be maximally visible from outside the vehicle. In addition to the special license plate or permanent placard, the director of vehicles shall issue to the person with a disability an individual identification card which must be carried by the person with a disability when the motor vehicle being operated by or used for the transportation of such person is parked in accordance with the provisions of K.S.A. 8-1,126, and amendments thereto. In addition to the temporary placard, a person issued such temporary placard shall carry the state or county receipt showing the name of the person who is issued such temporary placard. A person submitting satisfactory proof that such person's disability, condition or impairment is permanent in nature, and upon such person's request and payment of the fees prescribed in subsection (b), shall be issued *an individual identification card and: (1) A permanent placard or; (2) a permanent placard and a special license plate and an individual identification card; or (3) a permanent placard and a wheelchair emblem decal to be affixed to a distinctive license plate.* Upon proper request, one additional permanent placard shall be issued to the applicant who has not requested and received a special license plate. Upon proper request, one additional temporary placard shall be issued to the applicant certified as temporarily disabled. Temporary placards shall have an expiration date of not longer than six months from the date of issuance. The special license plates, *decal*s and placards shall display the international symbol of access to the physically disabled.

(b) Special license plates issued pursuant to this section shall be issued for the same period of time as other license plates are issued or for the remainder of such period if an existing license plate is to be exchanged for the special license plate. There shall be no fee for such special license plates in addition to the regular registration fee. No person shall be issued more than one special license plate, except that agencies or businesses which provide transportation for persons with a disability as a service, may obtain additional special license plates for vehicles which are utilized in the provision of that service. Special license plates may be personalized license plates subject to the provisions of K.S.A. 8-132, and amendments thereto, including the payment of the additional fee.

(c) Placards and individual identification cards issued pursuant to this section shall be valid as long as the person or a person responsible for the transportation of a person with a disability is eligible for a special license plate or permanent placard. The secretary of revenue shall promulgate the rules and regulations necessary to remain compliant with 23 C.F.R. § 1235.4.

(d) The color of the permanent placard shall be white on a blue background and the temporary placard shall be white on a red background.

(e) In addition to such other information contained on individual identification cards, cards shall have the date of birth and the sex of the person to whom the card is issued.

(f) Permanent placards and individual identification cards shall be returned to the department of revenue upon the death of the person with a disability. Temporary placards shall be returned to the department of revenue upon the expiration of the placard or upon the death of the person with a disability. Special license plates shall be returned to the county treasurer to be exchanged for another license plate upon the death of the person with a disability. The individual identification cards issued with the special license plates shall be returned to the department of revenue upon the death of the person with a disability.

(g) Violation of subsection (f) is an unclassified misdemeanor punishable by a fine of not more than \$50.

Sec. 4. On and after January 1, 2018, K.S.A. 8-1,126 is hereby amended to read as follows: 8-1,126. When a motor vehicle which bears a special license plate ~~or~~, placard *or decal* issued pursuant to K.S.A. 8-1,125, and amendments thereto, is being operated by or used for the transportation of a person with a disability, such motor vehicle:

(a) May be parked in any parking space, whether on public or private property, which is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of a person with a disability, except a parking space on private property which is clearly marked as being reserved for the use of a specified person with a disability;

(b) may be parked for a period of time not to exceed 24 hours in any parking zone which is restricted as to the length of parking time permitted, except where stopping, standing or parking is prohibited to all vehicles, where parking is reserved for special types of vehicles or where parking would clearly present a traffic hazard; and

(c) shall be exempt from any parking meter fees of the state or any city, county or other political subdivision.

Sec. 5. K.S.A. 2016 Supp. 8-1,156 is hereby amended to read as follows: 8-1,156. (a) Any person issued a distinctive military license plate, upon submitting satisfactory proof to the director of vehicles in accordance with rules and regulations adopted by the secretary that such person was awarded a silver star or bronze star medal by the United States government, may request a decal for each license plate indicating the person was a recipient of a silver star or bronze star medal.

(b) Any person issued a distinctive military license plate, upon submitting satisfactory proof to the director of vehicles in accordance with rules and regulations adopted by the secretary that such person was

awarded a combat medical badge, combat infantry badge, combat action badge, navy/marine corps combat action ribbon, army distinguished service cross, navy cross, air force cross~~es~~, distinguished flying cross, *army of occupation medal or navy occupation service medal* by the United States government, may request a decal for each license plate indicating the person was a recipient of a combat medical badge, combat infantry badge, combat action badge, navy/marine corps combat action ribbon, army distinguished service cross, navy cross, air force cross~~es~~, distinguished flying cross, *army of occupation medal or navy occupation service medal*.

(c) A fee of \$2 shall be paid for each decal issued. The director of vehicles shall design such decals. Such decals shall be affixed to the license plate in the location required by the director. Not more than two decals authorized by this section shall be affixed to any one license plate.

(d) As used in this section, “distinctive military license plate” means any distinctive license plate for which a person is required to submit proof of military service to the director of vehicles.

Sec. 6. K.S.A. 2016 Supp. 8-1,156 is hereby repealed.

Sec. 7. On and after January 1, 2018, K.S.A. 8-1,126 and K.S.A. 2016 Supp. 8-1,125 are hereby repealed.

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

Approved April 12, 2017.

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## CHAPTER 43

### SENATE BILL No. 174

AN ACT concerning higher education; authorizing the affiliation of Wichita area technical college with Wichita state university; amending K.S.A. 72-4472 and 74-4931 and K.S.A. 2016 Supp. 72-4470a and repealing the existing sections.

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

New Section 1. (a) The Wichita area technical college, authorized and designated as a technical college pursuant to K.S.A. 72-4472, and amendments thereto, with a governing board established pursuant to K.S.A. 72-4470a, and amendments thereto, is hereby affiliated with Wichita state university and the institutional infrastructure of the college is hereby officially designated as the Wichita state university campus of applied sciences and technology. Except as otherwise provided in this section, the Wichita state university campus of applied sciences and technology shall be governed by and operated as a technical college campus within Wichita state university.



(b) The governing board of the Wichita area technical college, established pursuant to K.S.A. 72-4470a, and amendments thereto, shall become the industry advisory board to the president of Wichita state university for the Wichita state university campus of applied sciences and technology, and all the powers and duties established in the governing board of any technical college by law shall be transferred to Wichita state university, subject to the rules and regulations and supervision of the state board of regents. The president of Wichita state university shall appoint the members of the industry advisory board. Advisory board members shall represent an industry sector that corresponds to a program offered by the Wichita state university campus of applied sciences and technology.

(c) The Wichita state university campus of applied sciences and technology shall offer programs that focus on critical areas of regional competitiveness, including credential and degree programs ranging from a general educational development (GED) credential to associate of applied science degrees. The industry advisory board shall:

(1) Review non-credit and credit programs with the president and senior leadership of the campus of applied sciences and technology to ensure such programs are aligned with the current and emerging needs of the industry for an educated and trained workforce; and

(2) provide input relating to changes in each advisory board member's industry sector that affect academic programs.

(d) (1) Except as otherwise provided in this subsection, the following persons admitted by Wichita state university into the campus of applied sciences and technology shall not be subject to the admission requirements set forth in K.S.A. 76-717, and amendments thereto:

(A) Persons admitted as degree-seeking students in career technical education courses or programs terminating with an associate of applied studies degree; and

(B) persons admitted as nondegree-seeking students in career technical education certificate programs.

(2) Persons admitted into the campus of applied sciences and technology who subsequently seek to transfer into another school within Wichita state university, or into a bachelor's, masters, doctorate or non-technical associate degree or certificate program offered at Wichita state university, shall, at the time of such transfer, be subject to the admission requirements set forth in K.S.A. 76-717, and amendments thereto.

(3) Persons admitted by Wichita state university seeking a non-technical certificate, non-technical associate degree or any bachelor's, masters or doctorate degree shall be subject to the admission requirements set forth in K.S.A. 76-717, and amendments thereto.

(e) The Wichita state university campus of applied sciences and technology shall continue to be a technical college and shall be eligible for funding that is available to technical colleges to the extent provided by

law. The amounts of such funding are to be determined in the same manner as provided by law for technical colleges.

(f) Whenever the Wichita area technical college, Wichita area vocational school or the Wichita area vocational-technical school, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the Wichita state university campus of applied sciences and technology. Except as otherwise provided in this section, the provisions of all statutes of general application to area vocational schools, area vocational-technical schools and technical colleges shall apply to the Wichita state university campus of applied sciences and technology. Whenever area vocational schools, area vocational-technical schools or technical colleges are defined, referred to or designated in a statute, such definition, referral or designation shall be deemed to apply to the Wichita state university campus of applied sciences and technology.

(g) The affiliation effected by this section shall not affect any contract, agreement or assurance in effect on the effective date of this section.

(h) Subject to authorization by the state board of regents, all personnel of the Wichita area technical college, who are necessary to the operation of the Wichita state university campus of applied sciences and technology, in the opinion of the president of Wichita state university, shall become personnel of Wichita state university. The employment of such personnel shall be deemed uninterrupted.

(i) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or that could have been commenced, by or against the Wichita area technical college, or by or against any personnel of the Wichita area technical college, shall abate by reason of the affiliation effected by this section. Any such suit, action or other proceeding may be allowed to be maintained by or against Wichita state university. No criminal action commenced or that could have been commenced by the Wichita area technical college shall abate by reason of the affiliation effected by this section.

(j) The provisions of this section shall be effective on and after the date the higher learning commission of the north central association of colleges and schools approves the affiliation described in subsection (a).

Sec. 2. K.S.A. 2016 Supp. 72-4470a is hereby amended to read as follows: 72-4470a. (a) *Except as provided in subsection (d)*, all technical college boards colleges shall establish and maintain a plan for a governing board, which shall be separate and independent of any board of education of any school district, to operate, control and manage the technical college. The plan shall include, but not be limited to, provisions relating to:

- (1) The composition of the independent governing board;
- (2) the territory of the technical college. If the territory of the tech-

nical college includes more than one county, the plan shall designate a home county;

(3) the method of election or appointment and the terms of service of the members of the independent governing board;

(4) the date upon which the independent governing board shall assume management and control of the technical college;

(5) the manner, terms upon which and extent to which the facilities will be transferred to the independent governing board and the division of other assets and indebtedness and other liabilities; and

(6) the manner and terms upon which faculty, employees and students will be transferred to the independent governing board. Subject to the provisions of K.S.A. 2016 Supp. 72-4478, and amendments thereto, such provisions shall specify terms of employment and address other personnel matters.

(b) On the date determined in the approved plan, the independent governing board established under subsection (a) ~~of this section~~ shall operate subject to the rules, regulations and supervision of the state board of regents in the same manner as other technical colleges. Any amendments to the plan shall be submitted to the state board of regents for approval.

(c) In addition to such other powers expressly granted by law and subject to the provisions of subsection (b), the governing board shall have the power to:

(1) Determine the career technical and general education courses of instruction that will comprise the associate of applied science degree programs of the college;

(2) establish the requirements for satisfactory completion of the associate of applied science degree programs of the college;

(3) confer the associate of applied science degree upon students who successfully complete an associate of applied science degree program of the college and to award a certificate or diploma to students who successfully complete a career technical education program of the college;

(4) appoint teaching staff and fix and determine teacher qualifications, duties and compensation. No teacher appointed to teach courses comprising the associate of applied science degree programs of the college shall be required to meet licensure requirements greater than those required in the state educational institutions;

(5) have custody of, and be responsible for, the property of the college and be responsible for the operation, management and control of the college;

(6) select a chairperson and such other officers as it deems desirable, from its membership;

(7) sue and be sued;

(8) appoint and fix the compensation and term of office of a president or chief administrative officer of the college;

(9) fix and determine, within state adopted standards, all other employees' qualifications, duties, compensation and all other items and conditions of employment;

(10) enter into contracts;

(11) accept any gifts, grants or donations;

(12) acquire and dispose of real or personal property;

(13) enter into lease agreements as lessor of any property owned or controlled by the college;

(14) adopt any rules and regulations, not inconsistent with any law or any rules and regulations of the state board of regents, which are necessary for the administration and operation of the college or for the conduct of business of the governing board;

(15) contract with one or more agencies, either public or private, whether located within or outside the territory of the college or whether located within or outside the state of Kansas, for the conduct by any such agency of academic or career technical education for students of the college and to provide for the payment to any such agency for the contracted educational services from any funds or moneys of the college, including funds or moneys received from student tuition and fees;

(16) appoint as its resident agent for the purpose of service of process, either the president of the technical college or the chairperson of the governing board, or both;

(17) take any other action, not inconsistent with any law or any rules and regulations of the state board of regents, which is necessary or incidental to the establishment, operation and maintenance of the college;

(18) issue bonds for capital improvement projects, enter into bond covenants and take such ancillary action as the governing board approves, relating thereto, except that such bonds shall not be secured by a pledge of any property tax revenues of the technical college;

(19) enter into agreements with counties relating to funding for capital improvement projects at technical colleges;

(20) fix different rates per hour of tuition, fees and charges for the different postsecondary programs administered by such board; and

(21) to acquire by lease-purchase any property, whether real, personal, or mixed, or any interest therein, which is necessary or desirable for technical college purposes. The term of any lease-purchase agreement entered into under authority of this subsection may be for not to exceed 10 years. Such lease-purchase agreement may provide for annual or other payment of rent or rental fees and may obligate the technical college to payment of maintenance or other expenses. Any lease-purchase agreement entered into under authority of this subsection shall be subject to change or termination at any time by the legislature. Any assignment of rights in any lease-purchase made under this subsection shall contain a citation of this section and a recitation that the lease-purchase agreement

and assignment thereof are subject to change or termination by the legislature.

(d) Pursuant to section 1(b), and amendments thereto, Wichita state university campus of applied sciences and technology shall be governed by Wichita state university, subject to rules and regulations of the state board of regents.

Sec. 3. K.S.A. 72-4472 is hereby amended to read as follows: 72-4472.

(a) The Wichita area vocational school, also known as the Wichita area vocational-technical school, ~~is authorized to be previously converted to and established by law as a Wichita area technical college and, upon such conversion and establishment as provided by law,~~ shall be officially designated as the Wichita area technical college state university campus of applied sciences and technology.

(b) Whenever the Wichita area vocational school, ~~or the Wichita area vocational-technical school or Wichita area technical college,~~ is referred to or designated by or in any statute, contract or other document, such reference or designation shall be deemed to apply to the Wichita area technical college state university campus of applied sciences and technology.

(c) The designation of Wichita area technical college as Wichita state university campus of applied sciences and technology shall be effective on and after the date the higher learning commission of the north central association of colleges and schools approves the affiliation described in section 1(a), and amendments thereto.

Sec. 4. K.S.A. 74-4931 is hereby amended to read as follows: 74-4931. On the effective date of this act, the following shall be eligible employers as defined in ~~subsection (13) of K.S.A. 74-4902(13), and amendments thereto,~~ and as further defined herein:

- (1) Kansas public school districts;
- (2) Kansas ~~area vocational-technical schools~~ technical colleges;
- (3) Kansas community junior colleges; or
- (4) the state of Kansas for state agencies having employees who are members of the state school retirement system on December 31, 1970.

Such eligible employers shall become participating employers as defined in ~~subsection (24) of K.S.A. 74-4902(24), and amendments thereto.~~ The entry date into the Kansas public employees retirement system of such eligible employers shall be January 1, 1971.

Sec. 5. K.S.A. 72-4472 and 74-4931 and K.S.A. 2016 Supp. 72-4470a are hereby repealed.

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

## CHAPTER 44

SENATE BILL No. 184<sup>e</sup>

AN ACT establishing the Kansas intelligence fusion center act.

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

Section 1. Sections 1 through 10, and amendments thereto, shall be known and may be cited as the Kansas intelligence fusion center act.

Sec. 2. There is hereby established the Kansas intelligence fusion center, which shall be constituted and operated as provided by state and federal law. The Kansas intelligence fusion center shall be a collaboration among federal, state, local and tribal agencies, as well as private sector entities, including, but not limited to, those with the primary purposes of homeland security, counter-terrorism, public safety, public protection and critical infrastructure. The Kansas intelligence fusion center shall be housed within a sensitive compartmentalized information facility in order to access classified threat information as permitted by state and federal law.

Sec. 3. The Kansas intelligence fusion center shall:

(a) Generate intelligence analysis critical for homeland security policy and relevant threat warning in order to protect life, liberty and property in Kansas and the great plains region;

(b) promote and improve intelligence sharing among public safety and public service agencies at the federal, state, local and tribal levels, and with critical infrastructure and key resource entities within the private sector;

(c) receive and integrate intelligence and information related to terrorism and other homeland security threats;

(d) collect, analyze, produce, disseminate and maintain such intelligence and information, as allowed by law, to support local, state, tribal and federal law enforcement agencies, and other governmental agencies and private organizations in: Preventing, preparing for, responding to and recovering from any possible or actual terrorist attack or other homeland security threat;

(e) maximize intelligence and information sharing in accordance with all applicable state and federal laws; and

(f) ensure that appropriate security measures are in place for: (1) The sensitive compartmentalized information facility; (2) data collected or stored at the sensitive compartmentalized information facility; and (3) personnel working at the sensitive compartmentalized information facility.

Sec. 4. The adjutant general's department shall provide facilities, budget and administrative support for the Kansas intelligence fusion center and its employees and participants. The adjutant general's department shall be the custodian of all records collected and maintained at the Kan-

sas intelligence fusion center and also shall serve as security manager for the Kansas intelligence fusion center.

Sec. 5. (a) The operations of the Kansas intelligence fusion center shall be overseen by the fusion center oversight board that is hereby established.

(b) The board shall be composed of the following:

(1) The attorney general;

(2) the adjutant general; and

(3) a member appointed by the attorney general with expertise in critical infrastructure protection.

(c) The attorney general shall serve as chairperson of the board and the adjutant general shall serve as vice-chairperson of the board.

(d) Each member of the fusion center oversight board shall have a current, valid federal security clearance at the appropriate level.

(e) The board may adopt policies and procedures for the operation of the Kansas intelligence fusion center.

(f) The board may adopt rules and regulations as may be necessary to carry out the provisions of this act, including rules and regulations concerning the operations of the Kansas intelligence fusion center.

(g) The attorney general's office shall provide administrative support to and be the custodian of the records for the board.

Sec. 6. Subject to appropriations, the Kansas intelligence fusion center shall have the following employees, all in the unclassified service of the civil service act:

(a) An executive director, who shall be appointed by and serve at the pleasure of the fusion center oversight board. The executive director shall:

(1) Be responsible for all operations of the Kansas intelligence fusion center and shall report to the fusion center oversight board;

(2) be responsible for: (A) Facilitating and implementing applicable federal standards and programs by the Kansas intelligence fusion center; (B) ensuring compliance with all applicable laws and federal requirements; and (C) maintaining proper separation between military and civilian capacities;

(3) provide support, as needed, to the fusion center oversight board meetings; and

(4) other duties and responsibilities as may be assigned by the fusion center oversight board;

(b) a deputy director for law enforcement, who shall be appointed by and serve at the pleasure of the attorney general. The deputy director for law enforcement shall serve as the liaison between the Kansas intelligence fusion center and Kansas law enforcement agencies and organizations and shall strive to provide the appropriate flow of information from each to the other; and

(c) such other employees as may be authorized by the fusion center oversight board to administer properly the provisions of this act.

Sec. 7. (a) The executive director, with approval of the fusion center oversight board, may enter into agreements with participating agencies or organizations, whether public or private, for their participation in the Kansas intelligence fusion center. Such agreements: (1) Shall define the duties and responsibilities of each participating agency or organization; and (2) may provide for payment by the participating agency or organization of a reasonable share of the cost to establish, maintain and operate the Kansas intelligence fusion center.

(b) (1) The Kansas intelligence fusion center, with approval of the fusion center oversight board, may accept any gift, grant, payment or contribution from any source, public or private, for the purpose of paying the costs to establish, maintain or operate the Kansas intelligence fusion center. Such gift, grant, payment or contribution may be in the form of services, equipment, supplies, materials or funds. All amounts received under this section 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 Kansas intelligence fusion center fund, that is hereby created in the state treasury and shall be administered by the adjutant general.

(2) Moneys in the Kansas intelligence fusion center fund may be used by the adjutant general, with approval or at the direction of the fusion center oversight board, to pay any costs associated with establishing, maintaining or operating the Kansas intelligence fusion center. All expenditures from the Kansas intelligence fusion center 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 adjutant general or the adjutant general's designee. Any gift, grant, payment or contribution in a form other than funds may be accepted by the executive director, with approval of the fusion center oversight board, and utilized and expended in any manner authorized by law to establish, maintain or operate the Kansas intelligence fusion center.

(c) The moneys credited to the fund created in subsection (b) shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this act.

Sec. 8. The office of the attorney general shall provide legal counsel to the Kansas intelligence fusion center. The attorney general shall assign an attorney to serve as privacy and civil liberties counsel to the Kansas intelligence fusion center. Such attorney shall advise the Kansas intelligence fusion center, executive director, and the fusion center oversight



board on all matters necessary to ensure compliance with all applicable federal and state privacy or civil liberties laws and obligations.

Sec. 9. No classified information shall be accessed or shared with any person or entity that does not meet the criteria of DoDM 5200.01-V1-V3.

Sec. 10. Private sector entities participating in the Kansas intelligence fusion center shall not be considered governmental entities, nor shall employees or agents of private sector entities assigned to the Kansas intelligence fusion center be considered state employees for the purposes of K.S.A. 75-6101 et seq., and amendments thereto.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 12, 2017.

Published in the *Kansas Register* April 20, 2017.

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## CHAPTER 45

Substitute for Substitute for SENATE BILL No. 95°

AN ACT authorizing telephonic signatures for public assistance applications; relating to powers, duties and functions of the Kansas department for children and families.

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

Section 1. (a) For purposes of any public assistance program described in K.S.A. 39-709, and amendments thereto, that is administered by the secretary for children and families, the secretary shall accept a telephonic signature by an applicant, or the applicant's authorized representative, to fulfill any signature requirement prescribed for any application for such public assistance program. Nothing in this section shall be construed to require an applicant to submit a telephonic signature with any application for public assistance.

(b) The secretary for children and families shall adopt rules and regulations prior to January 1, 2018, to establish requirements and procedures for any applicant choosing to submit a telephonic signature pursuant to subsection (a), including measures to verify the identity of any applicant choosing or purporting to submit a telephonic signature, to protect an applicant for public assistance against potential impersonation, identity theft or invasion of privacy and to provide accurate linkage between a telephonic signature and the associated application or case file.

(c) A telephonic signature submitted pursuant to this section shall constitute a valid and legal signature and may not be denied legal effect or enforceability solely because the signature is telephonic.

(d) (1) The secretary for children and families shall enter into a mem-

orandum of understanding with any not-for-profit organization that is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code and that is willing and able to collect and store telephonic signatures on behalf of an applicant for any public assistance program that is described in this section, subject to the requirements prescribed by the secretary for children and families and the requirements prescribed by the United States department of agriculture, as such requirements exist on the effective date of this section. The memorandum of understanding shall detail the requirements for collecting and storing a telephonic signature, shall provide for access to such signatures by the Kansas department for children and families and shall provide that, prior to adoption of rules and regulations pursuant to subsection (b), the secretary for children and families shall accept any telephonic signature that is submitted in accordance with any memorandum of understanding executed pursuant to this subsection.

(2) On or before July 1, 2018, the Kansas department for children and families shall develop the capability to accept, record and produce telephonic signatures in electronic audio file formats that are submitted with an online application for public assistance or shall enter into an agreement with a vendor to acquire the software necessary to accept, record and produce such an electronic audio file. Such agreement shall detail the requirements for accepting, recording, producing and securing telephonic signatures and shall require the vendor to secure the recorded electronic audio files in such a manner that no person has access to the telephonic signatures or applications other than the Kansas department for children and families and the vendor for the limited purposes of performing the vendor's performance obligations under the agreement.

(3) On or before July 1, 2018, the Kansas department for children and families shall develop the capability or shall enter into an agreement with a vendor to securely store telephonic signatures in electronic audio file formats together with public assistance applications stored within the department. If the department enters into an agreement with a vendor to provide the services described in this paragraph, the agreement shall require the vendor to provide full access to such electronic audio files to the Kansas department for children and families and limited access to the vendor for the purpose of fulfilling performance obligations under the agreement. The agreement shall detail the requirements for securing such electronic audio files, ensuring that such files are maintained to prevent access by any person other than the Kansas department for children and families and the vendor as provided in this paragraph.

(4) Any vendor or organization providing services described in this subsection shall indemnify the secretary for children and families and the Kansas department for children and families against any legal actions related thereto and any damages that arise therefrom, including, but not limited to, a breach of software or storage security that allows an

unauthorized person to obtain a telephonic signature, application or other information.

(e) As used in this section, “telephonic signature” means a recording of the verbal assent of an individual to submit an application for public assistance to the secretary for children and families over a telephone system and the information to which assent has been given.

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

Approved April 12, 2017.

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CHAPTER 46

HOUSE BILL No. 2080

AN ACT concerning water districts; relating to vehicle registration; reinstatement of forfeited benefit units; amending K.S.A. 82a-621 and K.S.A. 2016 Supp. 8-1,134 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 8-1,134 is hereby amended to read as follows: 8-1,134. (a) Except as provided in subsection ~~(d)~~ (c): (1) Each motor vehicle, trailer or semitrailer owned or leased by any city, county, township, *water district* or school district of this state or by any agency or instrumentality of any city, county or township and used exclusively for governmental, *water district* or school district purposes and not for any private purposes, which is not otherwise exempt from registration; or (2) each truck tractor, trailer or semitrailer leased by a community college or technical college and used exclusively for a truck driver training program, which is not otherwise exempt from registration, shall be registered for a fee established by rules and regulations adopted by the secretary of revenue, except that such fee shall not exceed the actual cost of such registration. Such registration shall be permanent in nature and designed in such a manner as to remain with a vehicle for the duration of the life span of the vehicle, the duration of the lease or until the title is transferred to an owner who is not a city, county, township, *water district*, school district, community college or technical college.

(b) License plates issued for city, county, township, *water district*, school district, community college or technical college vehicles shall be distinctive and shall contain the words city, county, township, *water district*, school district, community college or technical college, as applicable and there shall be no year date thereon.

(c) Vehicles registered under this section which are used for utility purposes shall be issued license plates as prescribed by subsection (b), except that such license plates shall be issued for periods of five years,

but shall be required to pay all license fees imposed pursuant to K.S.A. 8-143, and amendments thereto, as though such vehicles were registered annually. The secretary of revenue shall design decals to be affixed to such license plates containing the word utility and the date the registration is to expire.

(d) The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions of this act.

Sec. 2. K.S.A. 82a-621 is hereby amended to read as follows: 82a-621.

(a) Plans, specifications, proposed operating budget, schedules of unit fees and benefit units, rules and regulations; *and* estimates of cost for any authorized proposed improvement shall be filed with the chief engineer and with the secretary of the district. The total benefits of any such improvement shall be divided into a suitable number of benefit units. Each landowner within the district shall subscribe to a number of such units in proportion to the extent ~~he or she~~ *such landowner* desires to participate in the benefits of the improvements.

(b) Upon determining a schedule of benefit units and unit fees, the board shall cause a declaration of availability of such units for subscription to be entered in ~~its the board's~~ minutes ~~and any individual who fails to become a participating member within thirty (30) days thereafter shall not be eligible to hold office as a director, nor shall~~. Any individual, firm, partnership, association or corporation which fails to become a participating member within ~~ninety (90)~~ 90 days after such declaration *shall not* be qualified to *hold office as a director*, participate at any meeting or vote at any election held thereafter unless such individual, firm, partnership, association or corporation shall thereafter become a participating member.

(c) As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners of land located within the district who are not participating members may subscribe to such units as the board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. Proceeds realized from benefit units may be accumulated and used by the district for any lawful purpose, including but not limited to, construction, expansion; and improvement of ~~its the district's~~ water producing; and water transportation facilities.

(d) *The board of a district shall reinstate any benefit unit forfeited for nonpayment of fees and charges upon payment of:*

(1) *All fees and charges due to the district in addition to any fees and charges that would have accrued since the date of forfeiture; and*

(2) *a benefit unit reinstatement fee which shall not exceed 20% of the district's current new benefit unit fee.*

(e) If the capacity of the district's facilities permits, the district may

sell water to persons engaged in hauling water and to any municipal, quasi-municipal or nonprofit corporation organized for any purpose consistent with that for which the district was organized.

Sec. 3. K.S.A. 82a-621 and K.S.A. 2016 Supp. 8-1,134 are hereby repealed.

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

Approved April 18, 2017.

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CHAPTER 47

HOUSE BILL No. 2213

AN ACT concerning postsecondary education; relating to private and out-of-state postsecondary educational institution fees; relating to the postsecondary technical education authority; amending K.S.A. 2016 Supp. 72-4484 and 74-32,181 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 74-32,181 is hereby amended to read as follows: 74-32,181. (a) The state board shall fix, charge and collect fees not to exceed the following amounts by adopting rules and regulations for such purposes:

(1) For institutions chartered, incorporated or otherwise organized under the laws of Kansas and having their principal place of business within the state of Kansas:

Initial application fees:

Non-degree granting institution .....	\$2,000
Degree granting institution .....	\$3,000

Initial evaluation fee (in addition to initial application fees):

Non-degree level .....	\$750
Associate degree level .....	\$1,000
Baccalaureate degree level .....	\$2,000
Master's degree level .....	\$3,000
Professional or doctoral degree level .....	\$4,000

Renewal application fees:

Non-degree granting institution .....	2% of gross tuition, but not less than \$500, nor more than \$25,000
Degree granting institution .....	2% of gross tuition, but not less than \$1,000, nor more than \$25,000

New program submission fees, for each new program:

Non-degree program .....	\$250
Associate degree program .....	\$500

Baccalaureate degree program .....	\$750
Master's degree program .....	\$1,000
Professional or doctoral degree program .....	\$2,000
Program modification fee, for each program .....	\$100
Branch campus site fees, for each branch campus site:	
Initial non-degree granting institution .....	\$1,500
Initial degree granting institution .....	\$2,500
Renewal branch campus site fees, for each branch campus site:	
Non-degree granting institution .....	2% of gross tuition, but not less than \$500, nor more than \$25,000
Degree granting institution .....	2% of gross tuition, but not less than \$1,000, nor more than \$25,000
On-site branch campus review fee, for each site .....	\$250
Representative fees:	
Initial registration .....	\$200
Renewal of registration .....	\$150
Late submission of renewal of application fee .....	\$500
Student transcript copy fee .....	\$10
Returned check fee .....	\$50
Changes in institution profile fees:	
Change of institution name .....	\$100
Change of institution location .....	\$100
Change of ownership only .....	\$100
(2) For institutions domiciled or having their principal place of business outside the state of Kansas:	
Initial application fees:	
Non-degree granting institution .....	\$4,000
Degree granting institution .....	\$5,500
Initial evaluation fee (in addition to initial application fees):	
Non-degree level .....	\$1,500
Associate degree level .....	\$2,000
Baccalaureate degree level .....	\$3,000
Master's degree level .....	\$4,000
Professional or doctoral degree level .....	\$5,000
Renewal application fees:	
Non-degree granting institution .....	3% of gross tuition, but not less than \$1,000, nor more than \$25,000
Degree granting institution .....	3% of gross tuition, but not less than \$2,000, nor more than \$25,000
New program submission fees, for each new program:	
Non-degree program .....	\$500
Associate degree program .....	\$750
Baccalaureate degree program .....	\$1,000
Master's degree program .....	\$1,500

Professional or doctoral degree program .....	\$2,500
Program modification fee, for each program .....	\$100
Branch campus site fees, for each branch campus site:	
Initial non-degree granting institution .....	\$4,000
Initial degree granting institution .....	\$5,500
Renewal branch campus site fees, for each branch campus site:	
Non-degree granting institution .....	3% of gross tuition, but not less than \$1,000, nor more than \$25,000
Degree granting institution .....	3% of gross tuition, but not less than \$2,000, nor more than \$25,000
On site branch campus review fee, for each site .....	\$500
Representative fees:	
Initial registration .....	\$350
Renewal of registration .....	\$250
Late submission of renewal of application fee .....	\$500
Student transcript copy fee .....	\$10
Returned check fee .....	\$50
Changes in institution profile fees:	
Change of institution name .....	\$100
Change of institution location .....	\$100
Change of ownership only .....	\$100

(b) Fees shall not be refundable.

(c) If there is a change in the ownership of an institution and, if at the same time, there also are changes in the institution’s programs of instruction, location, entrance requirements or other changes, the institution shall be required to submit an application for an initial certificate of approval and shall pay all applicable fees associated with an initial application.

(d) An application for renewal shall be deemed late if the applicant fails to submit a completed application for renewal, including all required documentation, information and fees requested by the state board to complete the renewal process, at least 60 days prior to the expiration of the institution’s certificate of approval.

(e) The state board shall determine on or before June 1 of each year the amount of revenue which will be required to properly carry out and enforce the provisions of the Kansas private and out-of-state postsecondary educational institution act for the next ensuing fiscal year and shall fix the fees authorized for such year at the sum deemed necessary for such purposes within the limits of this section.

(f) Fees may be charged to conduct onsite reviews for degree granting and non-degree granting institutions or to review curriculum in content areas where the state board does not have expertise.

(g) The provisions of this section shall expire on June 30, ~~2017~~ 2018.

Sec. 2. K.S.A. 2016 Supp. 72-4484 is hereby amended to read as

follows: 72-4484. The provisions of K.S.A. 2016 Supp. 72-4481, 72-4482 and 72-4483, and amendments thereto, shall expire on June 30, ~~2017~~ 2019.

Sec. 3. K.S.A. 2016 Supp. 72-4484 and 74-32,181 are hereby repealed.

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

Approved April 18, 2017.

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## CHAPTER 48

### HOUSE BILL No. 2170

AN ACT concerning bicycles; relating to safety equipment; lamps and reflectors; amending K.S.A. 8-1592 and repealing the existing section.

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

Section 1. K.S.A. 8-1592 is hereby amended to read as follows: 8-1592. (a) Every bicycle when in use ~~at nighttime~~ *between sunset and sunrise* shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least ~~five hundred (500)~~ feet to the front and ~~with either: (1) A red reflector on the rear of a type approved by the secretary of transportation which shall be visible from all distances from one hundred (100) feet to six hundred (600) feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle; (2) a lamp on the rear emitting that shall emit a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector; or (3) the operator of such bicycle shall be wearing a device that emits a red or amber light that shall be visible from a distance of 500 feet to the rear.~~

(b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(c) No person shall sell a pedal for use on a bicycle, unless such pedal is equipped with a reflector ~~of a type approved by the secretary of transportation~~ which is visible from the front and rear of the bicycle to which it is attached during darkness from a distance of ~~two hundred (200)~~ feet, and no person shall sell a new bicycle, unless it is equipped with pedals meeting the requirements of this subsection.

Sec. 2. K.S.A. 8-1592 is hereby repealed.



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

Approved April 18, 2017.



CHAPTER 49

HOUSE BILL No. 2158

AN ACT concerning elections; relating to advance voting procedures; polling places; write in candidates; candidate and political committee reports to the secretary of state; email addresses; reports of contributions preceding an election; filing location requirements; amending K.S.A. 25-1132, 25-1133, 25-1134, 25-1136, 25-2701 and 25-4144 and K.S.A. 2016 Supp. 25-213, 25-1122, 25-3107, 25-4145 and 25-4148b and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 25-213 is hereby amended to read as follows: 25-213. (a) At all national and state primary elections, the national and state offices as specified for each in this section shall be printed upon the official primary election ballot for national and state offices and the county and township offices as specified for each in this section shall be printed upon the official primary election ballot for county and township offices.

(b) The official primary election ballots shall have the following heading:

OFFICIAL PRIMARY ELECTION BALLOT

\_\_\_\_\_ Party

To vote for a person whose name is printed on the ballot make a cross or check mark in the square at the left of the person's name. To vote for a person whose name is not printed on the ballot, write the person's name in the blank space, if any is provided, and make a cross or check mark in the square to the left.

The words national and state or the words county and township shall appear on the line preceding the part of the form shown above.

The form shown shall be followed by the names of the persons for whom nomination petitions or declarations have been filed according to law for political parties having primary elections, and for the national and state offices in the following order: United States senator, United States representative from \_\_\_\_\_ district, governor and lieutenant governor, secretary of state, attorney general, state treasurer, commissioner of insurance, senator \_\_\_\_\_ district, representative \_\_\_\_\_ district, district judge \_\_\_\_\_ district, district magistrate judge \_\_\_\_\_ district, district attorney \_\_\_\_\_ judicial district, and member state board of education \_\_\_\_\_ district. For county and township offices the form shall be fol-

lowed by the names of persons for whom nomination petitions or declarations have been filed according to law for political parties having primary elections in the following order: Commissioner \_\_\_\_\_ district, county clerk, treasurer, register of deeds, county attorney, sheriff, township trustee, township treasurer, township clerk. When any office is not to be elected, it shall be omitted from the ballot. Other offices to be elected but not listed, shall be inserted in the proper places. For each office there shall be a statement of the number to vote for.

To the left of each name there shall be printed a square. Official primary election ballots may be printed in one or more columns. The names certified by the secretary of state or county election officer shall be printed on official primary election ballots and no others. In case there are no nomination petitions or declarations on file for any particular office, the title to the office shall be printed on the ballot followed by a blank line with a square, and such title, followed by a blank line, may be printed in the list of candidates published in the official paper. No blank line shall be printed following any office where there are nomination petitions or declarations on file for the office except following the offices of precinct committeeman and precinct committeewoman.

(c) Except as otherwise provided in this section, no person's name shall be printed more than once on either the official primary election ballot for national and state offices or the official primary election ballot for county and township offices. No name that is printed on the official primary election ballot as a candidate of a political party shall be printed or written in as a candidate for any office on the official primary election ballot of any other political party. If a person is a candidate for the unexpired term for an office, the person's name may be printed on the same ballot as a candidate for the next regular term for such office. The name of any candidate on the ballot may be printed on the same ballot as such candidate and also as a candidate for precinct committeeman or committeewoman. No name that is printed on the official primary election ballot for national and state offices shall be printed or written in elsewhere ~~on such~~ the ballot or on the official primary election ballot for county and township offices except for precinct committeeman or committeewoman. No name that is printed on the official primary election ballot for county and township offices shall be printed or written in on the official primary election ballot for national and state offices or elsewhere ~~on such~~ the county and township ballot except for precinct committeeman or committeewoman.

(d) No person shall be elected to the office of precinct committeeman or precinct committeewoman where no nomination petitions or declarations have been filed, unless the person receives at least five write-in votes. As a result of a primary election, no person shall receive the nomination and no person's name shall be printed on the official general election ballot when no nomination petitions or declarations were filed,

unless the person receives votes equal in number to not less than 5% of the total of the current voter registration designated in the state, county or district in which the office is sought, as compiled by the office of the secretary of state, except that a candidate for township office may receive the nomination and have such person's name printed on the ballot where no nomination petitions or declarations have been filed if such candidate receives three or more write-in votes. No such person shall be required to obtain more than 5,000 votes.

(e) The secretary of state by rules and regulations shall develop the official ballot for municipal elections in odd-numbered year elections.

(f) *A person who won the primary election as a result of the person's name being written in on the primary ballot shall have such person's name printed on the official general election ballot for national, state, county, township or municipal office, unless the person notifies, in writing, the secretary of state for national or state office or the county election office for all other offices within 10 days following the canvass of the primary election that the person does not want such person's name on the official general election ballot.*

Sec. 2. K.S.A. 25-1132 is hereby amended to read as follows: 25-1132.

(a) All advance voting ballots which are received in the office of the county election officer *or any polling place within the county* not later than the hour for closing of the polls on the date of any election specified in ~~sub-section (b) of~~ K.S.A. 25-1122(f), and amendments thereto, shall be delivered by the county election officer to the appropriate special election board provided for in K.S.A. 25-1133, and amendments thereto.

(b) *Subject to the deadline for receipt by the office of the county election officer as set forth in this subsection, all advance voting ballots received by mail by the office of the county election officer after the closing of the polls on the date of any election specified in K.S.A. 25-1122(f), and amendments thereto, and which are postmarked or are otherwise indicated by the United States postal service to have been mailed on or before the close of the polls on the date of the election, shall be delivered by the county election officer to a special election board or the county board of canvassers, as determined by the secretary of state, for canvassing in a manner consistent, as nearly as may be, with other advance voting ballots. The deadline for the receipt by mail of the advance voting ballots by the office of the county election officer shall be the last delivery of mail by the United States postal service on the third day following the date of the election, unless additional time is permitted by the secretary. The secretary of state shall adopt rules and regulations to implement this subsection.*

Sec. 3. K.S.A. 25-1133 is hereby amended to read as follows: 25-1133.

(a) The county election officer of every county, which does not use voting machines, optical scanning systems or electronic or electromechanical

voting systems, shall establish a special election board. ~~Such~~ The special election board shall consist of the election board members in the precinct in which is located the office of the county election officer or the members of such additional election boards of the county as the county election officer may designate. ~~Such~~ The special election board shall meet at the voting place in the precinct in which is located the office of the county election officer on election day, *or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.*

(b) In counties where voting machines, optical scanning systems or electronic or electromechanical voting systems are used, the county election officer shall appoint a special election board consisting of at least three members. Such members shall be registered voters of ~~such the~~ county. ~~Such~~ The special election board shall meet in the office of the county election officer on election day or at such time before election day as the county election officer deems necessary, *or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.*

Sec. 4. K.S.A. 25-1134 is hereby amended to read as follows: 25-1134.

(a) The county election officer in counties which have a special election board established under K.S.A. 25-1133, and amendments thereto, shall deliver all advance voting ballots to the special election board when ~~such the~~ special election board convenes, and thereafter as advance voting ballots are received during election day, until the time for closing of the polls, *or as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.*

(b) The special election board may conduct the original canvass of advance voting ballots when the board convenes, but shall not complete final tabulation prior to election day.

Sec. 5. K.S.A. 25-1136 is hereby amended to read as follows: 25-1136.

(a) The vote of any advance voting voter may be challenged in the same manner as other votes are challenged, as nearly as may be, and the judges of the special election board shall determine the validity of each advance voting ballot. Whenever the judges determine that the form accompanying an advance voting ballot is insufficient, or that the voter is not a registered voter, or the challenge is otherwise sustained, the advance voting ballot envelope shall not be opened. In all such cases, the judges shall endorse on the back of the envelope the word "provisional" and state the reason for sustaining the challenge.

(b) Any advance voting ballot envelope which has not been signed shall not be opened, and no vote on the ballot therein shall be counted. ~~Such~~ The envelope or ballot shall be challenged in the same manner in which other votes are challenged.

(c) Whenever it shall be made to appear to the judges of a special

election board by sufficient proof that an advance voting voter has died, the envelope containing the advance voting ballot of ~~such~~ the deceased voter shall not be opened. In all such cases, the judges shall endorse on the back of the envelope the word “provisional” and the reason for sustaining the challenge.

(d) If objection is made to an advance voting ballot because of form, condition, or marking thereof, the ballot shall be marked “void” if the judges uphold the objection to the entire ballot, and otherwise shall be marked on the back thereof, “objected to” with a statement of the substance of the objection.

(e) Void, provisional and objected to advance voting ballots shall be transmitted to the county election officer in the same manner as personally cast provisional ballots are transmitted but shall be placed in separate envelopes or sacks, appropriately labeled and sealed. Votes contained in void and provisional advance voting ballots shall not be included in the total of votes certified by the special election board. Void, provisional and objected to advance voting ballots shall be reviewed by the board of county canvassers, and ~~such~~ the board shall finally determine the acceptance or rejection of each void, provisional or objected to ballot.

(f) *Procedures for canvassing and challenging advance voting ballots received by mail after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto, shall be as set forth in rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.*

Sec. 6. K.S.A. 2016 Supp. 25-3107 is hereby amended to read as follows: 25-3107. (a) At the time of commencement of any canvass by the county board of canvassers the county election officer shall present to the county board of canvassers the preliminary abstracts of election returns, together with the ballots and records returned by the election boards *and, as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting ballots received after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto.* The county board of canvassers shall inspect and check the records presented by the county election officer and shall hear any questions which the county election officer believes appropriate for determination of the board. The county board of canvassers shall do what is necessary to obtain an accurate and just canvass of the election and shall finalize the preliminary abstract of election returns by making any needed changes, and certifying its authenticity and accuracy. The certification of the county board of canvassers shall be attested by the county election officer. Neither the county board of canvassers nor the county election officer shall open or unseal sacks or envelopes of ballots, except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and amendments thereto, or other specific provision of law or

as is authorized to carry out a recount under subsection (b), *or as authorized under subsection (e)*.

(b) If a majority of the members of the county board of canvassers shall determine that there are manifest errors appearing on the face of the poll books of any election board, which might make a difference in the result of any election, or if any candidate shall request the recount of the ballots cast in all or in only specified voting areas for the office for which ~~such the~~ person is a candidate, or if any registered elector who cast a ballot in a question submitted election requests a recount in all or only specified voting areas to determine the result of the election, the county board of canvassers shall cause a special election board appointed by the county election officer to meet under the supervision of the county election officer and recount the ballots with respect to any office or question submitted specified by the county board of canvassers or requested by ~~such the~~ candidate or elector. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601 et seq., and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting ~~such the~~ recount. The county election officer shall not be a member of ~~such the~~ special election board. Before the special election board meets to recount the ballots upon a properly filed request, the party who makes the request shall file with the county election officer a bond, with security to be approved by the county or district attorney, conditioned to pay all costs incurred by the county in making ~~such the~~ recount. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, or if as a result of the recount a question submitted is overturned, no action shall be taken on the person's bond and the county shall bear the costs incurred for the recount. Any recount must be requested in writing and filed with the county election officer not later than 5 p.m. on the day following the meeting of the county board of canvassers. The request shall specify which voting areas are to be recounted. The county election officer shall immediately notify any candidate involved in the election for which ~~such the~~ recount is requested, or shall notify the county chairperson of each candidate's party. Any ~~such the~~ recount shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Upon completion of any recount under this subsection, the election board shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount.

(c) (1) The provisions of this subsection shall apply to candidates at any election for:

- (A) Any state or national office elected on a statewide basis;
- (B) the office of president or vice president of the United States;
- (C) the office of members of United States house of representatives;
- (D) office of members of state senate or house of representative whose district is located in two or more counties; and
- (E) office of members of state board of education.

(2) Any candidate may request a recount in one or more counties. Any such recount must be requested in writing and filed with the secretary of state not later than 5 p.m. on the second Friday following the election. The request shall specify which counties are to be recounted. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601, and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting ~~such the~~ recount. Except as provided by this subsection and subsection (d), the person requesting the recount shall file with the secretary of state a bond, with security to be approved by the secretary of state, conditioned to pay all costs incurred by the counties and the secretary of state in making ~~such the~~ recount. The amount of the bond shall be determined by the secretary of state. A candidate described in ~~paragraphs (D) and (E) of subsection (c)(1)(D) and (E)~~ may post a bond as provided by subsection (b) in lieu of the bond required by this subsection. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, no action shall be taken on the candidate's bond and the counties shall bear the costs incurred for the recount.

(3) The secretary of state immediately shall notify each county election officer affected by the recount and any candidate involved in the election for which ~~such the~~ recount is requested. If the candidate cannot be reached, then the secretary of state shall notify the state chairperson of such candidate's party. Any such recount shall be conducted under the supervision of the county election officers at the direction of the secretary of state, and shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Each county election officer involved in the recount shall appoint a special election board to recount the ballots. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount. Upon completion of any recount under this subsection, the special election board in each county shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The county election officer in each county immediately shall certify the results of the recount to the secretary of state.

(d) (1) The provisions of this subsection shall apply to candidates at general elections for:

- (A) Any state or national office elected on a statewide basis;
- (B) the office of president or vice president of the United States;
- (C) the office of members of United States house of representatives;
- (D) office of members of state senate or house of representative; and
- (E) office of members of state board of education.

(2) Whenever the election returns reflect that a candidate for office was defeated by  $\frac{1}{2}$  of 1% or less of the total number of votes cast and if ~~such~~ the candidate requests a recount in one or more counties of the ballots, the state shall bear the cost of any recount performed using the method by which ~~such~~ the ballots were counted originally.

(3) Not later than 60 days following a recount conducted pursuant to this subsection, the board of county commissioners of each county in which the recount occurred shall certify to the secretary of state the amount of all necessary direct expenses incurred by the county. Payment for such expenses shall be made to the county treasurer of the county upon warrants of the director of accounts and reports pursuant to vouchers approved by the secretary of state. Upon receipt of such payment and reimbursements, the county treasurer shall deposit the entire amount thereof in the county election fund, if there is one and if there is not then to the county general fund.

(4) The secretary of state, with the advice of the director of accounts and reports, shall determine the correctness of each amount certified under this section and adjust any discrepancies discovered before approving vouchers for payment to any county.

*(e) Procedures for canvassing and challenging advance voting ballots received by mail after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto, shall be as set forth in rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.*

Sec. 7. K.S.A. 2016 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where the person is a resident, or where the person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, the voter shall provide identification pursuant to K.S.A. 25-2908, and amendments thereto.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, the voter shall provide with the application for an advance voting ballot the voter's current and valid Kansas driver's license



number, nondriver's identification card number or a photocopy of any other identification provided by K.S.A. 25-2908, and amendments thereto.

(d) A voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto, if:

(1) The voter is unable or refuses to provide current and valid identification; or

(2) the name and address of the voter provided on the application for an advance voting ballot do not match the voter's name and address on the registration book. The voter shall provide a valid form of identification as defined in K.S.A. 25-2908, and amendments thereto, to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter's identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) No county election officer shall provide an advance voting ballot to a person who is requesting an advance voting ballot to be transmitted by mail unless:

(1) The county election official verifies that the signature of the person matches that on file in the county voter registration records. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person who is requesting an advance voting ballot does not match that on file, the county election officer shall attempt to contact the person and shall offer the person another opportunity to provide the person's signature for the purposes of verifying the person's identity. If the county election officer is unable to reach the person, the county election officer may transmit a provisional ballot, however, such provisional ballot may not be counted unless a signature is included therewith that can be verified; and

(2) the person provides such person's full Kansas driver's license number, Kansas nondriver's identification card number issued by the division of vehicles, or submits such person's application for an advance voting ballot and a copy of identification provided by K.S.A. 25-2908, and amendments thereto, to the county election officer for verification. If a person applies for an advance voting ballot to be transmitted by mail but fails to provide identification pursuant to this subsection or the identification of the person cannot be verified by the county election officer, the county election officer shall provide information to the person regarding the voter rights provisions of subsection (d) and shall provide the person an opportunity to provide identification pursuant to this subsection. For the purposes of this act, Kansas state offices and offices of any subdivision of the state will allow any person seeking to vote by an advance voting

ballot the use of a photocopying device to make one photocopy of an identification document at no cost.

(f) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in August in both even-numbered and odd-numbered years, between April 1 of such year and the ~~last business day~~ *Tuesday* of the week preceding such primary election.

(2) For the general election occurring on the Tuesday following the first Monday in November in both even-numbered and odd-numbered years, between 90 days prior to such election and the ~~last business day~~ *Tuesday* of the week preceding such general election.

(3) For question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election.

(4) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the ~~last business day~~ *Tuesday* of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the ~~county election officer shall determine the final date for mailing of advance voting ballots, but such date shall not be more than three business days~~ *one week* before such election.

(5) For any special election of officers, at such time as is specified by the secretary of state.

~~(6) For the presidential preference primary, between January 1 of the year in which such primary is held and the last business day of the week preceding such primary election.~~

The county election officer of any county may receive applications prior to the time specified in this subsection and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(g) Unless an earlier date is designated by the county election office, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12 noon on the day preceding such election. If the county election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots and instructions as are provided for in this act.

An application for an advance voting ballot filed by a voter who has a temporary illness or disability or who is not proficient in reading the

English language or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

The county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots. Ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(h) Any person having a permanent disability or an illness which has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information which establishes the voter's right to permanent advance voting status.

(i) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which the persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Names and addresses shall remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection by any registered voter during regular business hours. The county election officer upon receipt of the applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make the inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by the officer stating the person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such numbers shall not be made public.

(j) If a person on the permanent advance voting list fails to vote in four consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered and odd-numbered year, the county election officer may mail a notice to such voter. The

notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

(k) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and to define valid forms of identification.

Sec. 8. K.S.A. 25-2701 is hereby amended to read as follows: 25-2701.

(a) The county election officer shall determine the area to be served by each voting place at every election and shall ~~make the same known to any public officers having need of such information in due time for appropriate publication notices or other matters~~ *provide notice of such voting places as required by law.* Any precinct having less than 20 registered voters shall be included with an adjacent precinct or precincts in a single area to be served by a common voting place. The location of voting places shall be designated by the county election officer as provided by K.S.A. 25-2703, and amendments thereto.

(b) For any election to which this section is applicable, wherever a city is located in two counties, the county election officer of the county in which the greater population of the city is located may designate a voting place located in a portion of the city in the other county to serve an area within that portion of the city within the county in which the greater population of the city is located.

(c) At voting places serving two or more precincts, one or more of which have less than 20 registered voters, all ballots which are identical shall be deposited in the same ballot box or boxes and such votes shall be counted and canvassed in ~~such~~ a manner as to minimize the possibility of identifying the ballots cast by any voter.

*(d) (1) The county election officer may not change a voting place prior to an election without providing mailed notice to the voters affected at least 30 days prior to the election. If an emergency is declared by the county election officer, the mailed notice requirement shall be waived.*

*(2) Failure to receive notice of a change in the voting place shall not give rise to a cause of action challenging the results of the election.*

New Sec. 9. The secretary of state shall issue a press release and post a notice on the secretary of state's website notifying the public whenever the online voter registration website is unavailable for a period of 24 hours or more.

Sec. 10. K.S.A. 25-4144 is hereby amended to read as follows: 25-4144. Not later than 10 days after becoming a candidate, every candidate

shall appoint a treasurer or in lieu thereof shall appoint a candidate committee. The treasurer so appointed may be the candidate making such appointment. No candidate shall appoint more than one candidate committee to exist at the same time. If a candidate appoints a candidate committee, such candidate shall appoint a chairperson and a treasurer thereof, and the treasurer so appointed may be the candidate. No person who is registered as a lobbyist in accordance with K.S.A. 46-265, and amendments thereto, shall be eligible for appointment as treasurer for any candidate or candidate committee. The name ~~and~~, address *and email address, which such email address shall be optional*, of each treasurer and chairperson appointed under this section by a candidate for a state office shall be reported to the secretary of state by the candidate not later than 10 days after such appointment. The name ~~and~~, address *and email address, which such email address shall be optional*, of each treasurer and chairperson appointed under this section by a candidate for a local office shall be reported to the county election officer by the candidate not later than 10 days after such appointment. The candidate for governor shall carry out the requirements and responsibilities of the candidate under the campaign finance act, for the pair of candidates for governor and lieutenant governor, unless another specific provision applies.

Sec. 11. K.S.A. 2016 Supp. 25-4145 is hereby amended to read as follows: 25-4145. (a) Each party committee and each political committee which anticipates receiving contributions or making expenditures shall appoint a chairperson and a treasurer. The chairperson of each party committee and each political committee which anticipates receiving contributions or making expenditures for a candidate for state office shall make a statement of organization and file it with the secretary of state not later than 10 days after establishment of such committee. The chairperson of each political committee which anticipates receiving contributions or making expenditures for any candidate for local office, shall make a statement of organization and file it with the county election officer not later than 10 days after establishment of such committee.

(b) Every statement of organization shall include:

(1) The name and address of the committee. The name of the committee shall reflect the full name of the organization with which the committee is connected or affiliated or sufficiently describe such affiliation. If the political committee is not connected or affiliated with any one organization, the name shall reflect the trade, profession or primary interest of the committee as reflected by the statement of purpose of such organization;

(2) the names ~~and~~, addresses *and email addresses, which such email addresses shall be optional*, of the chairperson and treasurer of the committee;

(3) the names and addresses of affiliated or connected organizations; and

(4) in the case of a political committee, the full name of the organization with which the committee is connected or affiliated or, name or description sufficiently describing the affiliation or, if the committee is not connected or affiliated with any one organization, the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(c) Any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than 10 days following the change.

(d) (1) Each political committee which anticipates receiving contributions shall register annually with the commission on or before July 1 of each year. Each political committee registration shall be in the form and contain such information as may be required by the commission.

(2) Each registration by a political committee anticipating the receipt of \$2,501 or more in any calendar year shall be accompanied by an annual registration fee of \$300.

(3) Each registration by a political committee anticipating the receipt of more than \$500 but less than \$2,501 in any calendar year shall be accompanied by an annual registration fee of \$50.

(4) Each registration by a political committee anticipating the receipt of \$500 or less in any calendar year shall be accompanied by an annual registration fee of \$25.

(5) Any political committee which is currently registered under subsection (d)(3) or (d)(4) and which receives contributions in excess of \$2,500 for a calendar year, shall file, within three days of the date when contributions exceed such amount, an amended registration form which shall be accompanied by an additional fee for such year equal to the difference between \$300 and the amount of the fee that accompanied the current registration.

(6) Any political committee which is currently registered under subsection (d)(4) and which receives contributions in excess of \$500 but which are less than \$2,501, shall file, within three days of the date when contributions exceed \$500, an amended registration form which shall be accompanied by an additional fee of \$25 for such year.

(e) All such fees received by or for the commission shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

Sec. 12. K.S.A. 2016 Supp. 25-4148b is hereby amended to read as follows: 25-4148b. (a) Every treasurer for a candidate for state or local office shall file reports of campaign contributions as prescribed by this

act. Reports filed by treasurers for candidates for state office, ~~other than officers elected on a state-wide basis,~~ shall be filed in ~~both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident.~~ Reports filed by treasurers for candidates for state-wide office shall be filed only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Reports required by this section shall be in addition to any other reports required by law.

(b) The report shall contain the name and address of each person who has made one or more contributions in an aggregate amount or value of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending at 11:59 p.m. on the Wednesday preceding the date of election. The report shall be made on or before the close of business on the Thursday preceding the date of the election. The report shall contain the amount and date of the contribution, including the name and address of every lender, guarantor and endorser when the contribution is in the form of an advance or loan.

(c) Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the secretary of state.

(d) (1) "Local office" shall have the meaning ascribed to it in K.S.A. 25-4143, and amendments thereto.

(2) "State office" shall have the meaning ascribed to it in K.S.A. 25-4143, and amendments thereto.

(e) The provisions of this section shall be part of and supplemental to the campaign finance act.

Sec. 13. K.S.A. 25-1132, 25-1133, 25-1134, 25-1136, 25-2701 and 25-4144 and K.S.A. 2016 Supp. 25-213, 25-1122, 25-3107, 25-4145 and 25-4148b are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 18, 2017.

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## CHAPTER 50

## HOUSE BILL No. 2095

AN ACT concerning the uniform act regulating traffic; relating to gross weight limits of certain vehicles, special permits; amending K.S.A. 2016 Supp. 8-1908 and repealing the existing section.

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

New Section 1. (a) The secretary of transportation, with respect to highways under the secretary's jurisdiction, including those highways designated as city connecting links, may issue an annual overweight divisible load permit for a truck-tractor semitrailer combination vehicle or a truck-tractor semitrailer, trailer combination vehicle with a gross vehicle weight of more than 85,500 pounds but not more than 90,000 pounds transporting divisible loads on six or more axles.

(b) Such vehicles shall be subject to the following requirements:

(1) The vehicle, when loaded in excess of 80,000 pounds, may not be operated on the interstate system;

(2) the vehicle must be registered at the maximum weight category in accordance with K.S.A. 8-143, and amendments thereto;

(3) the vehicle shall not be operated on any bridge or highway that has a posted gross weight limit or posted axle weight limit less than that which the vehicle is operating;

(4) the permit must be carried in the vehicle when the vehicle is operating at a weight over 85,500 pounds;

(5) the vehicle must comply with the provisions of K.S.A. 8-1908 and 8-1909, and amendments thereto, except as otherwise provided by this section;

(6) any vehicle operating under an overweight divisible load permit cannot violate the width provisions of K.S.A. 8-1902, and amendments thereto, or the height and length provisions of K.S.A. 8-1904, and amendments thereto;

(7) the vehicle, when operating in excess of 85,500 pounds, must not operate when highway surfaces have ice or snowpack or drifting snow; and

(8) the vehicle, when operating in excess of 85,500 pounds, shall only carry agricultural inputs, farm supplies, biofuels, feed, raw or processed agricultural commodities, livestock, raw meat products intended by the shipper for further processing or farm products. The provisions of this paragraph shall be construed liberally so as to effectuate the purposes thereof.

(c) The secretary shall charge and collect a fee of \$200 for the annual permit provided in this section. No single trip permits shall be issued.

(d) No vehicle issued a permit under this section shall be moved or operated on any highway when the gross weight on two or more consecutive axles exceeds the limitations in the following table:



Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles		
	6 axles	7 axles	8 axles
35 .....			86,000
36 .....			86,500
37 .....			87,000
38 .....			87,500
39 .....			88,500
40 .....			89,000
41 .....			89,500
42 .....			90,000
43			
44			
45 .....		86,000	
46 .....		87,000	
47 .....		87,500	
48 .....		88,000	
49 .....		88,500	
50 .....		89,000	
51 .....		89,500	
52 .....		90,000	
53 .....	86,000		
54 .....	86,500		
55 .....	87,000		
56 .....	87,500		
57 .....	88,000		
58 .....	89,000		
59 .....	89,500		
60 .....	90,000		

(e) All permit fees received under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

Sec. 2. K.S.A. 2016 Supp. 8-1908 is hereby amended to read as follows: 8-1908. (a) The gross weight upon any wheel of a vehicle shall not exceed 10,000 pounds.

(b) The gross weight upon any one axle, including any one axle of a group of axles, of a vehicle shall not exceed 20,000 pounds.

(c) Any axle located within seven feet of any adjacent axle shall, when the wheels of such axle are in contact with the road surface, carry its proportionate part of the load permitted on such axles. An axle shall not

be used to determine the lawful axle weight under this section or the gross weight under K.S.A. 8-1909, and amendments thereto, when the wheels of such axle are not in contact with the road surface.

(d) As used in this section:

(1) “Gross weight on any one axle” means the total load on all wheels whose centers are included within two parallel transverse vertical planes not more than 40 inches apart.

(2) “Tandem axles” means two or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced not less than 40 inches and not more than 96 inches apart.

(3) “Triple axles” means three or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced more than 96 inches and not more than ~~120~~ 132 inches apart.

(4) “Quad axles” means four or more consecutive axles, arranged in tandem and articulated from a common attachment to the vehicle or individually attached to the vehicle, with such axles spaced more than 120 inches and not more than 150 inches apart.

(e) The gross weight on tandem axles shall not exceed 34,000 pounds.

Sec. 3. K.S.A. 2016 Supp. 8-1908 is hereby repealed.

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

Approved April 18, 2017.

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## CHAPTER 51

### SENATE BILL No. 65

AN ACT concerning alcoholic beverages; pertaining to alcoholic liquors pledged as collateral; relating to sale by creditors thereof; amending K.S.A. 41-1125 and repealing the existing section.

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

Section 1. K.S.A. 41-1125 is hereby amended to read as follows: 41-1125. (a) The sheriff of any county who has in his possession alcoholic liquors on which he has levied execution for a judgment creditor may sell such alcoholic liquors when an order of the court is entered directing such sale. Such order shall be directed to the sheriff of the county in which execution is levied and shall fix the time and place of sale, method and manner in which the sale shall be held, together with such notice as the court shall direct. After payment of all costs of ~~said~~ *such* action, the balance shall be paid to the judgment creditor, except, if the amount

exceeds the amount of the judgment, then any excess of the judgment amount shall be returned to defendant debtor.

(b) *If a creditor has become lawfully entitled to alcoholic liquors that were pledged as collateral for a loan, notwithstanding provisions of the Kansas liquor control act to the contrary, the creditor may request permission from the director to take possession of such alcoholic liquors and conduct a sale to a licensee possessing a valid license issued pursuant to the Kansas liquor control act or to a licensee possessing a valid license issued pursuant to the club and drinking establishment act, to satisfy any debt owed to the creditor. No such possession or sale shall occur without prior written authorization from the director. The director may require a detailed inventory or other information deemed necessary to ensure the safe storage, handling and transfer of such alcoholic liquor. The proceeds from any sale executed pursuant to this section shall go to the creditor in satisfaction of any debt owed, with any remaining proceeds to be returned to the debtor.*

(c) This act shall not apply in any case in which the court has ordered and directed confiscation of liquors as part of a judgment or conviction.

Sec. 2. K.S.A. 41-1125 is hereby repealed.

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

Approved April 18, 2017.

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## CHAPTER 52

### SENATE BILL No. 20

AN ACT concerning financial institutions; relating to certain acts under the administration of the state bank commissioner; amending K.S.A. 9-2204, 50-1118, 50-1119, 50-1120, 50-1121, 50-1122, 50-1123, 50-1124, 50-1125, 50-1126, 50-1127, 50-1128 and 50-1129 and K.S.A. 2016 Supp. 9-508, 9-509, 9-513a, 9-1101, 9-1102, 9-1104, 9-1114, 9-2203, 9-2206, 9-2211, 9-2216a and 50-1117 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 9-1101 is hereby amended to read as follows: 9-1101. (a) Any bank hereby is authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, the following powers:

(1) To receive and to pay interest on deposits. The commissioner, with approval of the state banking board, may by rules and regulations fix maximum rates of interest to be paid on deposit accounts other than accounts for public moneys;

(2) to buy, sell, discount or negotiate domestic currency, gold, silver, foreign currency, bullion, commercial paper, bills of exchange, notes and

bonds. Foreign currency shall not be bought, sold, discounted or negotiated for investment purposes;

(3) to make all types of loans, subject to the loan limitations contained in the state banking code;

(4) (A) to buy and sell:

(i) Bonds, securities or other evidences of indebtedness, including temporary notes, of the United States of America;

(ii) bonds, securities or other evidences of indebtedness, including temporary notes, fully guaranteed, directly or indirectly, by the United States of America; or

(iii) general obligation bonds of any state of the United States of America or any municipality or quasi-municipality thereof.

(B) No bank shall invest in bonds, securities or other evidences of indebtedness if:

(i) The direct and overlapping indebtedness of such municipality or quasi-municipality is in excess of 10% of its assessed valuation, excluding therefrom all valuations on intangibles and homestead exemption valuation; or

(ii) any bond, security, or evidence of indebtedness of any such municipality or quasi-municipality that has been in default in the payment of principal or interest within 10 years prior to the time that any bank acquires any such bonds, security or evidence of indebtedness;

(5) to buy and sell investment securities which are evidences of indebtedness limited to buying and selling without recourse marketable obligations evidencing indebtedness of any state or federal agency, including revenue bonds issued pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board in the form of bonds, notes or debentures or both. The total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 25% of the capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank, except that this limit shall not apply to obligations of the United States government or any agency thereof;

(6) to buy and sell investment securities which are evidences of indebtedness limited to buying and selling without recourse marketable obligations evidencing indebtedness of any person, copartnership, association or corporation. The total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 25% of the capital stock surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank;

(7) to subscribe to, buy, hold and sell stock of:

(A) The federal national mortgage association in accordance with the national housing act;

(B) the federal home loan mortgage corporation in accordance with the federal home loan mortgage corporation act;

(C) the federal agricultural mortgage corporation, provided no bank's investment in such corporation shall exceed 5% of the bank's capital stock, surplus and undivided profits; and

(D) a federal home loan bank. Any bank may also become a member of a federal home loan bank;

(8) to subscribe to, buy and own stock in one or more small business investment companies in Kansas as otherwise authorized by federal law, except that in no event shall any bank acquire shares in any small business investment company if, upon the acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed 5% of the bank's capital and surplus;

(9) to subscribe to, buy and own stock in any agricultural credit corporation or livestock loan company, or its affiliate, organized pursuant to the provisions of the laws of the United States providing for the information and operation of agricultural credit corporations and livestock loan companies, in an amount not exceeding either the undivided profits or 10% of the capital stock and surplus and undivided profits from such bank, whichever is greater;

(10) to buy, hold and sell any type of investment securities not enumerated in this section with approval of the commissioner and upon such conditions and under such regulations as are prescribed by the state banking board;

(11) to act as escrow agent;

(12) to subscribe to, acquire, hold and dispose of stock of a corporation the purpose of which is to acquire, hold and dispose of loans secured by real estate mortgages, and to acquire, hold and dispose of the debentures and capital notes of such corporation. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits;

(13) to purchase and sell securities and stock without recourse solely upon the order, and for the account, of customers;

(14) to subscribe to, acquire, hold and dispose of any class of stock, debentures and capital notes of MABSCO agricultural services, inc. or any similar corporation the purpose of which is to acquire, hold and dispose of agricultural loans originated by Kansas banks. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits;

(15) to engage in financial future contracts on United States government and agency securities subject to such rules and regulations as the commissioner may prescribe pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices;

(16) to subscribe to, buy and own stock in a bankers' bank organized under the laws of the United States, this state or any other state, or a one

bank holding company which owns or controls such a bankers' bank, except no bank's investment in such stock shall exceed 10% of its capital stock, surplus and undivided profits;

(17) to buy, hold and sell shares of an open-end investment company in a manner consistent with the parameters outlined by the office of the comptroller of the currency in banking circular 220, as such circular was issued on November 21, 1986;

(18) subject to the prior approval of the commissioner and subject to such rules and regulations as are adopted by the commissioner pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices, a bank may establish a subsidiary which engages in the following securities activities:

(A) Selling or distributing stocks, bonds, debentures, notes, mutual funds and other securities;

(B) issuing and underwriting municipal bonds;

(C) organizing, sponsoring and operating mutual funds; or

(D) acting as a securities broker-dealer;

(19) to subscribe to, buy and own stock in an insurance company incorporated prior to 1910, under the laws of Kansas, with corporate headquarters in this state, which only provides insurance to financial institutions. The investment in such stock shall not exceed 2% of the bank's capital stock, surplus and undivided profits;

(20) to purchase and hold an interest in life insurance policies and, to the extent applicable, to purchase and hold an annuity in a manner consistent with the parameters outlined in the interagency statement of the purchase and risk management of life insurance, issued by the office of the comptroller of the currency, the board of governors of the federal reserve system, the federal deposit insurance corporation and the office of the thrift supervision on December 7, 2004; and set out in the respective agencies' issuances, including the federal deposit insurance corporation financial institution letter 127-2004, effective December 7, 2004, subject to the following limitations:

(A) The cash surrender value of any life insurance policy or policies underwritten by any one life insurance company shall not at any time exceed 15% of the total of the bank's capital stock, surplus, undivided profits, 100% of the allowance for loan and lease losses, capital notes and debentures and reserve for contingencies, unless the bank has obtained the prior approval of the commissioner;

(B) the cash surrender value of life insurance policies, in the aggregate from all companies, cannot at any time exceed 25% of the total of the bank's capital stock, surplus, undivided profits, 100% of the allowance for loan and lease losses, capital notes and debentures and reserve for contingencies, unless the bank has obtained the prior approval of the state bank commissioner;

(C) the limitations set forth in subparagraphs (A) and (B) shall not apply to any life insurance policy in place prior to July 1, 1993; and

(D) for the purposes of subsections (a)(20)(A) and (a)(20)(B), intangibles, such as goodwill, shall not be included in the calculation of capital;

(21) act as an agent and receive deposits, renew time deposits, close loans, service loans and receive payments on loans and other obligations for any company which is a subsidiary, as defined in K.S.A. 9-519, and amendments thereto, of the bank holding company which owns the bank. Nothing in this subsection shall authorize a bank to conduct activities as an agent which the bank or the subsidiary would be prohibited from conducting as a principal under any applicable federal or state law. Any bank which enters or terminates any agreement pursuant to this subsection shall within 30 days of the effective date of the agreement or termination provide written notification to the commissioner which details all parties involved and services to be performed or terminated;

(22) to make loans to the bank's stockholders or the bank's controlling holding company stockholders on the security of the shares of the bank or the bank's controlling bank holding company, but loans on the security of the shares of the bank may occur only if the bank would have extended credit to such stockholder on exactly the same terms without the bank shares pledged as collateral;

(23) to make investments in and loans to community and economic development entities as defined in K.S.A. 9-701, and amendments thereto, subject to the limitations prescribed by community reinvestment act pub. l. 95-128, title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq.;

(24) to participate in a school savings deposit program authorized under K.S.A. 9-1138, and amendments thereto;

(25) with prior approval of the commissioner, to control or hold an interest in a financial subsidiary.

(A) The financial subsidiary may engage in one or more of the following activities:

(i) Lending, exchanging, transferring, investing for others or safeguarding money or securities;

(ii) acting as agent or broker for purposes of insuring, guaranteeing or indemnifying against loss, harm, damage, illness, disability, death or providing annuities as agent or broker subject to the requirements of chapter 40 of the Kansas Statutes Annotated, and amendments thereto;

(iii) issuing or selling instruments representing interests in pools or assets permissible for a bank to hold directly;

(iv) operating a travel agency; and

(v) activities that are financial in nature as determined by the commissioner.

(B) Such activities do not include:

(i) Insuring, guaranteeing or indemnifying against loss, harm, dam-

age, illness, disability, death or providing or issuing annuities the income of which is subject to tax treatment under 26 U.S.C. § 72;

(ii) real estate development or real estate investment, except as otherwise expressly authorized by Kansas law; or

(iii) any activity permitted for financial holding companies under 12 U.S.C. § 1843(k)(4)(H) and (I).

(C) As used in subsection (a)(25), “control” means:

(i) Directly or indirectly owning, controlling or having power to vote 25% or more of any class of the voting shares of a financial subsidiary;

(ii) controlling in any manner the election of a majority of the directors or trustees of the financial subsidiary; or

(iii) otherwise directly or indirectly exercising a controlling influence over the management or policies of the financial subsidiary, as determined by the commissioner;

(26) to maintain and operate a postal substation on banking premises, in accordance with the rules and regulations of the United States postal service. The bank may advertise the services of the substation for the purpose of attracting customers to the bank and receive income therefrom. The bank shall keep the books and records of the substation separate from the records of other banking operations;

(27) with prior approval of the commissioner, to invest in foreign bonds an amount not to exceed 1% of the bank’s capital ~~or stock and~~ surplus as long as such bonds comply with the form and definition of investment securities;

(28) to act as an agent for any credit life, health and accident insurance, sometimes referred to as credit life and disability insurance, and mortgage life and disability insurance in connection with extensions of credit and only as a source of protection for such extension of credit;

(29) to act as agent for any fire, life or other insurance company authorized to do business in this state at any approved office of the bank which is located in any place the population does not exceed 5,000 inhabitants. Such insurance may be sold to existing and potential customers of the bank regardless of the geographic location of the customers;

(30) to become a stockholder and member of the federal reserve bank of the federal reserve district where such bank is located;

(31) with prior approval of the commissioner, to acquire the stock of, or establish and operate a subsidiary to acquire the stock of, another insured depository institution or the holding company of the insured depository institution provided such acquisition is incidental to a reorganization otherwise authorized by the law of this state and which occurs nearly simultaneously with such acquisition;

(32) with prior approval of the commissioner, to establish and operate a subsidiary for the purpose of owning, holding and managing all or part of the bank’s securities portfolio provided the parent bank owns 100% of the stock of the subsidiary and the subsidiary shall not own, hold or man-



age securities for any party other than the parent bank. The subsidiary shall be subject to:

(A) All banking laws and rules and regulations applicable to the parent bank unless otherwise provided;

(B) consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;

(C) examination and supervision by the commissioner, the cost and responsibility of which will be attributable to the parent bank; and

(D) any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns;

(33) with prior approval of the commissioner, to establish or acquire operating subsidiaries for the purpose of engaging in any activity which is part or incidental to the business of banking as long as the parent bank owns at least 50% of the stock of the subsidiary. The subsidiary shall be subject to:

(A) All banking laws and regulations applicable to the parent bank unless otherwise provided;

(B) consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;

(C) examination and supervision by the commissioner the cost and responsibility of which will be attributable to the parent bank; and

(D) any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns;

(34) to invest in, without limitation, obligations of or obligations which are insured as to principal and interest by or evidences of indebtedness that are fully collateralized by obligations of the federal home loan banks, the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, the student loan marketing association and the federal farm credit banks; ~~and~~

(35) any bank or trust company may invest in bonds or notes secured by mortgages which in turn are insured or upon which there is a commitment to insure by the federal housing administration, or any successor thereto, in debentures issued by the federal housing administration or any successor, and in obligations of national mortgage associations; *and*

(36) *to buy tax credits for certain historic structure rehabilitation expenditures pursuant to K.S.A. 2016 Supp. 79-32,211, and amendments thereto. The total amount of such tax credits held by a bank shall at no time exceed 25% of the capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank.*

(b) Any bank hereby is authorized to exercise by the bank's board of

directors or duly authorized officers or agents, subject to approval by the commissioner, any incidental power necessary to carry on the business of banking.

Sec. 2. K.S.A. 2016 Supp. 9-1102 is hereby amended to read as follows: 9-1102. (a) Any bank or trust company may own, purchase, lease, hold, encumber or convey real property, including any building or buildings necessary for the bank's or trust company's accommodation in the transaction of its business. Real property shall be disposed of or charged off the bank's or trust company's books not later than seven years after the real property's intended use for bank or trust purposes ends. Before the end of the holding period, a bank or trust company may request authorization from the commissioner to hold the real property for an additional year. No bank or trust company shall be granted more than three requests for additional time to hold any one parcel of real property.

(b) Any bank or trust company may own, purchase, lease, hold, encumber or convey certain personal property necessary for the bank's or trust company's accommodation in the transaction of such bank's or trust company's business.

(c) *The insurable tangible property of a bank or trust company shall be insured against loss.*

~~(d)~~ Any bank may own all or part of the stock in a single trust company or safe deposit company organized under the laws of the state of Kansas.

~~(d)~~(e) Any bank may own all of the stock in a corporation or limited liability company organized under the laws of the state of Kansas, owning real estate, all or a part of which is occupied or to be occupied by the bank or trust company.

~~(e)~~(f) A bank's or trust company's total investment or ownership at all times in any one or more of the following shall not exceed 50% of the total of capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies. For purposes of this subsection, intangibles, such as goodwill, shall not be included in the calculation of capital. Any such excess shall be removed from the bank's or trust company's books unless approval is granted by the commissioner:

- (1) The book value of real estate plus all encumbrances thereon;
- (2) the book value of furniture and fixtures;
- (3) the book value of stock in a safe deposit company;
- (4) the book value of stock in a trust company; or
- (5) the book value of stock in a corporation organized under the laws

of this state owning real estate occupied by the bank or trust company and advances to such corporation acquired or made after July 1, 1973, except that any real estate not necessary for the accommodation of the

bank's or trust company's business shall be disposed of or charged off its books according to subsection (a).

~~(f)~~(g) Any bank or trust company may acquire or purchase real estate in satisfaction of any debts due such bank or trust company, and may purchase real estate at judicial sales, subject to the following:

(1) No bank or trust company shall bid at any judicial sale a larger amount than is necessary to protect its debts and costs.

(2) No real estate or interest in oil and gas leasehold acquired in the satisfaction of debts or upon judicial sales shall be carried as a book asset of the bank or trust company for more than 10 years.

(3) At the termination of the 10 years such real estate shall be charged off. The commissioner may grant an extension not to exceed four years, if in the commissioner's judgment, carrying the real estate as an asset for such extended period will be to the advantage of the bank or trust company. Any such extensions issued shall be reviewed by the commissioner on an annual basis.

~~(g)~~(h) No bank or trust company may buy and sell real estate as a business.

~~(h)~~(i) A bank may hold or sell any personal property coming into ownership of the bank in the collection of debts. All such property, except legal investments, shall be sold within one year of acquisition, provided a commercially reasonable sale can occur. If a commercially reasonable sale cannot occur within one year, the commissioner may authorize a bank to carry such property as a book asset for a longer period. The bank shall not carry such property as a nonbook asset.

~~(i)~~(j) The time periods for holding real estate or other property shall begin when:

(1) The bank has received title or deed to the property;

(2) the property is in a redemption period following the bank's purchase at a judicial sale; or

(3) the bank has actual control of the property.

~~(j)~~(k) With prior notification to the commissioner, any bank may operate a wholly owned subsidiary corporation or limited liability company which holds and manages property acquired through debt previously contracted. The subsidiary shall be subject to:

(1) All banking laws and rules and regulations applicable to the parent bank unless otherwise provided;

(2) consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;

(3) examination and supervision by the commissioner, the cost and responsibility of which will be attributable to the parent bank; and

(4) any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns.

~~(k)~~(l) (1) With prior approval of the commissioner, any bank may exchange such bank's participation interest in real estate acquired or purchased in satisfaction of any debts previously contracted for an interest in a corporation or limited liability company which will manage, market and dispose of the real property. Prior to the exchange, the bank's directors must:

(A) Find and document that the exchange is in the best interest of the bank and would improve the ability of the bank to recover, or otherwise limit, the bank's loss on real estate acquired through debts previously contracted;

(B) certify that the bank's loss exposure is limited, as a legal and accounting matter, and that the bank does not have open-ended liability for the obligations of the corporation or limited liability company;

(C) certify that the corporation or limited liability company agrees to be subject to the supervision and examination by the commissioner; and

(D) ensure that the corporation or limited liability company complies with this section and K.A.R. 17-11-17, including obtaining a current appraisal of the real estate.

(2) A bank may not further exchange the bank's interest in the corporation or limited liability company for an interest in any other real or personal property.

Sec. 3. K.S.A. 2016 Supp. 9-1104 is hereby amended to read as follows: 9-1104. (a) *Definitions*. As used in this section:

(1) "Borrower" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, limited liability company, not-for-profit corporation, state government of the United States or a United States government unit or agency, instrumentality or political subdivision thereof or any similar entity or organization.

(2) "Capital" means the total of capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies. Intangibles, such as goodwill, shall not be included in the definition of capital when determining lending limits.

(3) "Loan" means:

(A) A bank's direct or indirect advance of funds to or on behalf of a borrower based on an obligation of the borrower to repay the funds;

(B) a contractual commitment to advance funds;

(C) an overdraft;

(D) loans that have been charged off the bank's books in whole or in part, unless the loan is unenforceable by reason of:

(i) Discharge in bankruptcy;

(ii) expiration of the statute of limitations;

(iii) judicial decision; or

(iv) the bank's forgiveness of the debt;

(E) any credit exposure to a borrower arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction or securities borrowing transaction between a bank and that borrower.

(4) “Derivative transaction” means any transaction that is a contract, agreement, swap, warrant, note or option that is based in whole, or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices or other assets.

(b) *General lending limit rule.* Subject to the provisions in subsections (d), (e) and (f), loans to one borrower, including any bank officer or employee, shall not exceed 25% of a bank’s capital.

(c) *Calculation of the lending limit.* (1) The bank’s lending limit shall be calculated on the date the loan or written commitment is made. The renewal or refinancing of a loan shall not constitute a new lending limit calculation date unless new funds are advanced.

(2) If the bank’s lending limit increases subsequent to the origination date, a bank may use the current lending limit to determine compliance when advancing funds. An advance of funds includes the lending of money or the repurchase of any portion of a participation.

(3) If the bank’s lending limit decreases subsequent to the origination date, a bank is not prohibited from advancing on a prior commitment that was legal on the date the commitment was made.

(d) *Exemptions.* (1) Overnight federal funds.

(2) That portion of a loan which is continuously secured on a dollar for dollar basis by any of the following will be exempt from any lending limit:

(A) A guaranty, commitment or agreement to take over or to purchase, made by any federal reserve bank or by any department, bureau, board, commission, agency or establishment of the United States of America, including any corporation wholly owned, directly or indirectly by the United States;

(B) a perfected interest in a ~~time~~ *segregated* deposit account in the lending bank. In the case of a ~~time~~ deposit which may be withdrawn in whole or in part ~~prior to maturity~~, the bank shall establish written internal procedures to prevent the release of the deposit;

(C) a bonded warehouse receipt issued to the borrower by some other person;

(D) treasury bills, certificates of indebtedness or bonds or notes of, or fully guaranteed by, the United States of America or instrumentalities or agencies thereof;

(E) general obligation bonds or notes of the state of Kansas or any other state in the United States of America;

(F) general obligation bonds or notes of any Kansas municipality or quasi-municipality; or

(G) a perfected interest in a repurchase agreement of United States government securities with the lending bank.

(e) *Special rules.* (1) The total liability of any borrower may exceed the general 25% limit by up to an additional 10% of the bank's capital. To qualify for this expanded limit:

(A) The bank shall have as collateral a recorded first lien or liens on real estate securing a portion of the borrower's total liability equal to at least the amount by which the total liability exceeds the 25% limit;

(B) the appraised value of the real estate shall equal at least twice the amount by which the borrower's total liability exceeds the 25% limit; and

(C) a portion of the borrower's total liability, equal to at least the amount by which the total liability exceeds the 25% limit, shall amortize within 20 years by regularly scheduled installment payments.

(2) That portion of any loan endorsed or guaranteed by a borrower will not be added to that borrower's liability until the endorsed or guaranteed loan is past due 10 days.

(3) If the total liability of any shareholder owning 25% or more of any class of voting shares, officers or directors will exceed \$50,000, prior approval from the bank's board of directors shall be noted in the minutes.

(4) To the extent time deposits are insured by the federal deposit insurance corporation, such deposits purchased by a bank from another financial institution shall not be considered a loan to that financial institution and shall not be subject to the bank's lending limit.

(5) Third-party paper purchased by the bank will not be considered a loan to the seller unless and until the bank has the right under the agreement to require the seller to repurchase the paper.

(f) *Combination rules.*

(1) *General rule.* Loans to one borrower will be attributed to another borrower and the borrowers' total liability will be combined:

(A) When proceeds of a loan are to be used for the direct benefit of the other borrower, to the extent of the proceeds so used; or

(B) when a common enterprise is deemed to exist between the borrowers.

(2) *Direct benefit.* The proceeds of a loan to a borrower will be deemed to be used for the direct benefit of another person and will be attributed to the other person when the proceeds, or assets purchased with the proceeds, are transferred to another person, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods or services.

(3) *Common enterprise.* A common enterprise will be deemed to exist and loans to separate borrowers will be aggregated:

(A) When the expected source of repayment for each loan or extension of credit is the same for each borrower and neither borrower has another source of income from which the loan, together with the borrower's other obligations, may be fully repaid;

(B) when both of the following circumstances are present:

(i) Loans are made to borrowers that are related directly or indirectly through common control, including where one borrower is directly or indirectly controlled by another borrower. Common control means to own, control or have the power to vote 25% or more of any class of voting securities or voting interests or to control, in any manner, the election of a majority of the directors or to have the power to exercise a controlling influence over the management or policies of another person; and

(ii) substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence is deemed to exist when 50% or more of one borrower's gross receipts or gross expenditures, on an annual basis, are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues, expenses, inter-company loans, dividends, capital contributions and similar receipts or payments; or

(C) when separate persons borrow from a bank to acquire a business enterprise of which those borrowers will own more than 50% of the voting securities or voting interests, in which case a common enterprise is deemed to exist between the borrowers for purposes of combining the acquisition loan.

(D) An employer will not be treated as a source of repayment for purposes of determining a common enterprise because of wages and salaries paid to an employee.

(4) *Special rules for loans to a corporate group.* (A) Loans by a bank to a borrower and the borrower's subsidiaries shall not, in the aggregate, exceed 50% of the bank's capital. At no time shall loans to any one borrower or to any one subsidiary exceed the general lending limit of 25%, except as allowed by other provisions of this section. For purposes of this paragraph, a corporation or a limited liability company is a subsidiary of a borrower if the borrower owns or beneficially owns directly or indirectly more than 50% of the voting securities or voting interests of the corporation or company.

(B) Loans to a borrower and a borrower's subsidiaries that do not meet the test contained in subsection (f)(4)(A) will not be combined unless either the direct benefit or the common enterprise test is met.

(5) *Special rules for loans to partnerships, joint ventures and associations.* (A) As used in this paragraph, the term "partnership" shall include a partnership, joint venture or association. The term partner shall include a partner in a partnership or a member in a joint venture or association.

(B) *General partner.* Loans to a partnership are considered to be loans to a partner if, by the terms of the partnership agreement, that partner is held generally liable for debts or actions of the partnership.

(C) *Limited partner.* If the liability of a partner is limited by the terms of the partnership agreement, the amount of the partnership debt attrib-

utable to the partner is in direct proportion to that partner's limited partnership liability.

(D) Notwithstanding the provisions of subsections (f)(5)(B) and (f)(5)(C), if by the terms of the loan agreement the liability of any partner is different than delineated in the partnership agreement, for the purpose of attributing debt to the partner, the loan agreement shall control.

(E) Loans to a partner are not attributed to the partnership unless either the direct benefit or the common enterprise test is met.

(F) Loans to one partner are not attributed to other partners unless either the direct benefit or common enterprise test is met.

(G) When a loan is made to a partner to purchase an interest in a partnership, both the direct benefit and common enterprise tests are deemed to be met, and the loan is attributed to the partnership.

(6) Notwithstanding the provisions of this subsection, the commissioner may determine, based upon an evaluation of the facts and circumstances of a particular transaction, that a loan to one borrower may be attributed to another borrower.

(g) The commissioner may order a bank to correct any loan not in compliance with this section within 60 days. A violation of this section shall be deemed corrected if that portion of the borrower's liability which created the violation could be legally advanced under current lending limits.

Sec. 4. K.S.A. 2016 Supp. 9-1114 is hereby amended to read as follows: 9-1114. (a) The business of any bank or trust company shall be managed and controlled by such bank's or trust company's board of directors.

(b) The board shall consist of not less than five nor more than 25 members who shall be elected by the stockholders at any regular annual meeting which shall be held on the date specified in the bank's or trust company's bylaws. A majority of the directors shall be residents of this state. *Minutes shall be made of each stockholders' meeting of a bank or trust company. The minutes shall show any action taken by the stockholders, including the election of all directors.*

(c) If for any reason the meeting cannot be held on the date specified in the bylaws, the meeting shall be held on a subsequent day within 60 days of the day fixed, to be designated by the board of directors, or, if the directors fail to fix the day, by the shareholders representing  $\frac{2}{3}$  of the shares.

(d) In all cases, at least 10 days' notice of the date for the annual meeting shall have been given by first-class mail to the shareholders.

(e) Any newly created directorship must be approved and elected by the shareholders in the manner provided in the general corporation code. A special meeting of the shareholders may be convened at any time for such purpose.



(f) Any vacancy in the board of directors may be filled by the board of directors in the manner provided in the general corporation code.

(g) Any director of any bank or trust company who shall become indebted to such bank or trust company on any judgment or whose indebtedness is charged off or forgiven shall forfeit such person's position as director.

(h) Within 15 days after the annual meeting the president or cashier of every bank and every trust company shall submit to the commissioner a certified list of stockholders and the number of shares owned by each. This list of stockholders shall be kept and maintained in the bank's or trust company's main office and shall be subject to inspection by all stockholders during the business hours of the bank or trust company. The commissioner may require the list to be filed using an electronic means.

(i) Each director shall take and subscribe an oath to administer the affairs of such bank or trust company diligently and honestly and to not knowingly or willfully permit any of the laws relating to banks or trust companies to be violated. A copy of each oath shall be retained by the bank or trust company in the bank's or trust company's records after the election of any officer or director, for review by the commissioner's staff during the next examination. The commissioner may require the oath to be filed using an electronic means.

(j) Every bank and trust company shall notify the commissioner of any change in the chief executive officer, president or directors, including in such bank's or trust company's report a statement of the past and current business and professional affiliations of the new chief executive officer, president or directors.

Sec. 5. K.S.A. 2016 Supp. 9-508 is hereby amended to read as follows: 9-508. As used in this act:

(a) "Agent" means a person designated by a licensee to receive funds from a Kansas resident in order to forward such funds to the licensee to effectuate money transmission at one or more physical locations throughout the state or through the internet, regardless of whether such person would be exempt from the act by conducting money transmission on such person's own behalf;

(b) "commissioner" means the state bank commissioner;

(c) "control" means the power directly or indirectly to direct management or policies of a person engaged in money transmission or to vote 25% or more of any class of voting shares of a person engaged in money transmission;

(d) "electronic instrument" means a card or other tangible object for the transmission or payment of money, including a prepaid access card or device which contains a microprocessor chip, magnetic stripe or other means for the storage of information, that is prefunded and for which the

value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in goods or services;

(e) “licensee” means a person licensed under this act;

(f) “nationwide multi-state licensing system and registry” means a licensing system developed and maintained by the conference of state bank supervisors, or its successors and assigns, for the licensing and reporting of those persons engaging in the money transmission;

(g) “monetary value” means a medium of exchange, whether or not redeemable in money;

(h) “money transmission” means to engage in the business of the sale or issuance of payment instruments or of receiving money or monetary value for transmission to a location within or outside the United States by wire, facsimile, electronic means or any other means, except that money transmission does not include currency exchange where no transmission of money occurs;

(i) “outstanding payment liability” means:

(1) With respect to a payment instrument, any payment instrument issued or sold by the licensee which has been sold in the United States directly by the licensee, or any payment instrument that has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee; *or*

(2) with respect to the transmission of money or monetary value, any money or monetary value the licensee or an agent of the licensee has received from a customer in the United States for transmission which has not yet been delivered to the recipient or otherwise paid by the licensee;

(j) “payment instrument” means any electronic or written check, draft, money order, travelers check or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term “payment instrument” does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services;

(k) “permissible investments” means:

(1) Cash;

(2) deposits in a demand or interest bearing account with a domestic federally insured depository institution, including certificates of deposit;

(3) debt obligations of a domestic federally insured depository institution;

(4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;

(5) investment grade bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States;

(6) obligations that a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States has unconditionally agreed to purchase, insure or guarantee and that bear a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(7) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein;

(8) receivables that are payable to a licensee, in the ordinary course of business, pursuant to contracts which are not past due and which do not exceed in the aggregate 40% of the total required permissible investments pursuant to K.S.A. 9-513b, and amendments thereto. A receivable is past due if not remitted to the licensee within 10 business days; or

(9) any other investment or security device approved by the commissioner;

(l) “person” means any individual, partnership, association, joint-stock association, trust, corporation or any other form of business enterprise;

(m) “resident” means any natural person or business entity located in this state; ~~and~~

(n) *“service provider” means any person that provides services as described in K.S.A. 9-511(a)(2)(A), and amendments thereto, that are used by an exempt entity or its agent to provide money transmission services to the exempt entity’s customers. A service provider does not contract with the customers of an exempt entity on its own or on behalf of an exempt entity or the exempt entity’s agent; and*

~~(n)~~(o) “tangible net worth” means the physical worth of a licensee, calculated by taking a licensee’s assets and subtracting its liabilities and its intangible assets, such as copyrights, patents, intellectual property and goodwill.

Sec. 6. K.S.A. 2016 Supp. 9-509 is hereby amended to read as follows: 9-509. (a) No person shall engage in the business of selling, issuing or delivering its payment instrument, check, draft, money order, personal money order, bill of exchange, evidence of indebtedness or otherwise engage in the business of money transmission with a resident of this state, or, except as provided in K.S.A. 9-510, and amendments thereto, act as agent for another in the transmission of money as a service or for a fee or other consideration, unless such person files ~~an~~ a complete application and obtains a license from the commissioner.

(b) Each license shall expire December 31 of each year. A license

shall be renewed by filing with the commissioner a complete application and nonrefundable application fee at least 30 days prior to expiration of the license. *Renewal applications received between December 1 and December 31 of each year and incomplete renewal applications as of December 1 of each year shall be assessed a late fee.* Expired licenses may be reinstated through ~~February 28~~ *the last day of February* of each year by filing a reinstatement application and paying the appropriate application and late fees.

(c) It shall be unlawful for a person, acting directly or indirectly or through concert with one or more persons, to acquire control of any person engaged in money transmission through purchase, assignment, pledge or other disposition of voting shares of such money transmitter, except with the prior approval of the commissioner. Request for approval of the proposed acquisition shall be made by filing ~~an~~ *a complete* application with the commissioner at least 60 days prior to the acquisition.

(d) All applications shall be submitted in the form and manner prescribed by the commissioner. Additionally, the following shall apply to all applications:

(1) The commissioner may use a nationwide multi-state licensing system and registry for processing applications, renewals, amendments, surrenders, and any other activity the commissioner deems appropriate. The commissioner may also use a nationwide multi-state licensing system and registry for requesting and distributing any information regarding money transmitter licensing to and from any source so directed by the commissioner. The commissioner may establish relationships or contracts with the nationwide multi-state licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants, licensees, as may be reasonably necessary to participate in the nationwide multi-state licensing system and registry. The commissioner may report violations of the law, as well as enforcement actions and other relevant information to the nationwide multi-state licensing system and registry. The commissioner may require any applicant or licensee to file reports with the nationwide multi-state licensing system and registry in the form prescribed by the commissioner.

(2) An application shall be accompanied by nonrefundable fees established by the commissioner for the license ~~and each agent location~~. The commissioner shall determine the amount of such fees to provide sufficient funds to meet the budget requirements of administering and enforcing the act for each fiscal year. ~~For the purposes of this subsection, "each agent location" means each physical location within the state where money transmission is conducted, including, but not limited to, branch offices, authorized vendor offices, delegate offices, kiosks and drop boxes.~~ Any person using the multi-state licensing system shall pay all associated costs.

(3) (A) The commissioner may require fingerprinting of any individ-

ual, officer, director, partner, member, shareholder or any other person related to the application deemed necessary by the commissioner. If the applicant is a publicly traded corporation or a subsidiary of a publicly traded corporation, no fingerprint check shall be required. Fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction.

(B) The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person, or in the case of an applicant company, the persons associated with the company.

(C) For purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have with the individual states, the commissioner may use a nationwide multi-state licensing system and registry for requesting information from and distributing information to the department of justice or any governmental agency.

(D) Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(4) Each application shall include audited financial statements for each of the two fiscal years immediately preceding the date of the application and an interim financial statement, as of a date not more than 90 days prior to the date of the filing of an application. The audited and interim financial statements shall be prepared in accordance with United States generally accepted accounting principles or in any other form or manner approved by the commissioner. Any person not in business two years prior to the filing of the application shall submit a statement in the form and manner prescribed by the commissioner sufficient to demonstrate compliance with subsection (e).

(e) In addition, each person submitting an application shall meet the following requirements:

(1) The tangible net worth of such person shall be at all times not less than \$250,000, as shown by an audited financial statement and certified to by an owner, a partner or officer of the corporation or other entity filed in the form and manner prescribed by the commissioner. A consolidated financial statement from an applicant's holding company may be accepted by the commissioner. The commissioner may require any person to file a statement at any other time upon request;

(2) such person shall deposit and at all times keep on deposit with a bank in this state approved by the commissioner, cash or securities satisfactory to the commissioner in an amount not less than \$200,000. The

commissioner may increase the amount of cash or securities required up to a maximum of \$1,000,000 upon the basis of:

(A) The volume of money transmission business transacted in this state by such person; or

(B) the impaired financial condition of a licensee, as evidenced by a reduction in net worth or financial losses;

(3) in lieu of the deposit of cash or securities required by this subsection, such person may give a surety bond in an amount equal to that required for the deposit of cash or securities, in a form satisfactory to the commissioner and issued by a company authorized to do business in this state, which bond shall be payable to the office of the state bank commissioner and be filed with the commissioner; and

(4) such person shall submit a list to the commissioner of the names and addresses of other persons who are authorized to act as agents for transactions with Kansas residents.

*(f) The commissioner has the discretion to determine the completeness of any application submitted pursuant to this act. In making the determination, the commissioner shall take into consideration compliance with all requirements set out in this section and any other facts and circumstances that the commissioner deems appropriate.*

*(1) If the applicant fails to complete the application for a new license or for a change of control of a license within 60 days after the commissioner provides written notice of the incomplete application, the application will be considered abandoned and the application fee will not be refunded. An applicant whose application is abandoned under this section may reapply to obtain a license.*

*(2) If the applicant fails to file a complete renewal application on or before December 31 of the year, the license will be deemed to expire on December 31 of the year.*

~~(f)~~(g) The deposit of cash, securities or surety bond required by this section shall be subject to:

(1) Payment to the commissioner for the protection and benefit of purchasers of money transmission services, purchasers or holders of payment instruments furnished by such person, and those for whom such person has agreed to act as agent in transmission of monetary value and to secure the faithful performance of the obligations of such person in respect to the receipt, handling, transmission and payment of monetary value; and

(2) payment to the commissioner for satisfaction of any expenses, fines, fees or refunds due pursuant to this act, levied by the commissioner or that become lawfully due pursuant to a final judgment or order.

~~(g)~~(h) The aggregate liability of the surety for all breaches of the conditions of the bond, in no event, shall exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days' notice to the commissioner and thereafter shall be relieved

of liability for any breach of condition occurring after the effective date of the cancellation. The commissioner or any aggrieved party may enforce claims against such deposit of cash or securities or surety bond. So long as the depositing person is not in violation of this act, such person shall be permitted to receive all interest and dividends on the deposit and shall have the right to substitute other securities satisfactory to the commissioner. If the deposit is made with a bank, any custodial fees shall be paid by such person.

~~(h)~~(i) (1) The commissioner shall have the authority to examine the books and records of any person operating in accordance with the provisions of this act, at such person's expense, to verify compliance with state and federal law.

(2) The commissioner may require any person operating in accordance with the provisions of this act to maintain such documents and records as necessary to verify compliance with this act, or any other applicable state or federal law or regulation.

(3) For purposes of investigation, examination or other proceeding under this act, the commissioner may administer or cause to be administered oaths, subpoena witnesses and documents, compel the attendance of witnesses, take evidence and require the production of any document that the commissioner determines to be relevant to the inquiry.

~~(i)~~(j) Except as authorized with regard to the appointment of agents, a licensee is prohibited from transferring, assigning, allowing another person to use the licensee's license, or aiding any person who does not hold a valid license under this act in engaging in the business of money transmission.

Sec. 7. K.S.A. 2016 Supp. 9-513a is hereby amended to read as follows: 9-513a. The commissioner, after notice and an opportunity for a hearing, may deny, suspend, revoke or refuse to renew *or approve* a license issued pursuant to this act, or issue a cease and desist order if the commissioner finds any of the following are applicable to any person who is required to be licensed under this act or such person's agent:

(a) The financial responsibility, character, reputation, experience and general fitness of the person, such person's senior officers, directors and principal stockholders are such to warrant the belief that the business may not be operated efficiently, fairly and in the public interest;

(b) the person may be financially unable to perform such person's obligations or that the person has willfully failed without reasonable cause to pay or provide for payment of any of such person's obligations related to the person's money transmission business;

(c) the person no longer meets a requirement for initial granting of a license;

(d) the person has filed with the commissioner any document or statement falsely representing or omitting a material fact;

(e) the person concealed a fact or a condition exists which would clearly have justified the commissioner's refusal to grant a license had the fact or condition been known to exist at the time the application for the license was made;

(f) the person or a senior officer, director or a stockholder who owns more than 10% of the money transmission business' outstanding stock has been convicted of a crime involving fraud, dishonesty or deceit;

(g) there has been entry of a federal or state administrative order against the person for violation of any rule and regulation applicable to the conduct of the person's money transmission business;

(h) the person refused to provide information requested by the commissioner or refused to permit an examination or investigation by the commissioner;

(i) a failure to pay to the commissioner any fee required by this act;

(j) the person has engaged in any transaction, practice or business conduct that is fraudulent or deceptive in connection with the business of money transmission;

(k) the person advertises, displays, distributes, broadcasts or televises any false, misleading or deceptive statement or representation with regard to rates, terms or conditions for the transmission of money;

(l) the person fails to keep and maintain sufficient records to permit an audit to satisfactorily disclose to the commissioner the licensee's compliance with the provisions of the act;

(m) the person has been the subject of any disciplinary action by this or any other state or federal agency;

(n) a final judgment has been entered against the person in a civil action and the commissioner finds the conduct on which the judgment is based indicates that it would be contrary to the public interest to permit such person to be licensed;

(o) the person has violated any order issued by the commissioner, any provision of this act, any rule and regulation adopted thereto, or any other state or federal law applicable to money transmission; or

(p) the person has refused or otherwise failed to provide, after a reasonable time as determined by the commissioner, any information necessary to approve or renew an application or license issued pursuant to this act.

Sec. 8. K.S.A. 2016 Supp. 9-2203 is hereby amended to read as follows: 9-2203. (a) Mortgage business shall only be conducted in this state at or from a mortgage company licensed by the commissioner as required by this act. A licensee shall be responsible for all mortgage business conducted on their behalf by loan originators or other employees.

(b) Mortgage business involving loan origination shall only be conducted in this state by an individual who has first been registered with the commissioner as a loan originator as required by this act and maintains



a valid unique identifier issued by the nationwide mortgage licensing system and registry, if operational at the time of registration.

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

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

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

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

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

Sec. 9. K.S.A. 9-2204 is hereby amended to read as follows: 9-2204.

(a) Any person required to be licensed as a mortgage company pursuant to this act shall submit to the commissioner a separate application for the principal place of business and each branch office on forms prescribed and provided by the commissioner. The application or applications shall contain information the commissioner deems necessary to adequately identify:

(1) The nature of the mortgage business to be conducted, principal place of business address and each branch office address;

(2) the identity, character and qualifications of an individual applicant;

(3) the identity, character and qualifications of the loan originators, owners, officers, directors, members, partners and employees of the applicant;

(4) the name under which the applicant intends to conduct business; and

(5) other information the commissioner requires to evaluate the financial responsibility and condition, character, qualifications and fitness of the applicant and compliance with the provisions of this act.

(b) Any individual required to register as a loan originator pursuant to this act shall submit to the commissioner an application for registration on forms prescribed and provided by the commissioner. The application

shall contain information the commissioner deems necessary to adequately identify the location where the individual engages in mortgage business activities, the licensee for whom the registrant will conduct mortgage business and other information the commissioner requires to evaluate the condition, character, qualifications, and fitness of the applicant and compliance with the provisions of this act.

(c) Each application shall be accompanied by a nonrefundable fee of not less than \$50, which may be increased by rules and regulations pursuant to K.S.A. 9-2209, and amendments thereto.

(d) *The commissioner shall consider an application for a license or registration abandoned if the applicant fails to complete the application within 60 days after the commissioner provides the applicant with written notice of the incomplete application. An applicant whose application is abandoned under this section may reapply to obtain a license or registration and shall pay the fee set forth in subsection (c) upon such application.*

(e) An application shall be approved, and a nonassignable license or registration shall be issued to the applicant provided:

(1) The commissioner has received the complete application and fee required by this section;

(2) the commissioner determines the proposed name under which an applicant for a mortgage company license intends to conduct business is not misleading or otherwise deceptive; and

(3) the commissioner determines the financial responsibility and condition, character, qualifications and fitness of the applicant warrants a belief that the business of the applicant will be conducted competently, honestly, fairly and in accordance with all applicable state and federal laws.

Sec. 10. K.S.A. 2016 Supp. 9-2206 is hereby amended to read as follows: 9-2206. (a) If the commissioner fails to issue a license or registration within 60 days or grant a renewal within 30 days after an application is deemed complete by the commissioner, the applicant may make written request for a hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

(b) *If an application is considered abandoned pursuant to K.S.A. 9-2204, and amendments thereto, an applicant may make written request for a hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.*

Sec. 11. K.S.A. 2016 Supp. 9-2211 is hereby amended to read as follows: 9-2211. (a) Each applicant or licensee who maintains a bona fide office shall file with the commissioner a surety bond in the amount of not less than \$50,000, in a form acceptable to the commissioner, issued by an insurance company authorized to conduct business in this state, securing the applicant's or licensee's faithful performance of all duties and obligations of a licensee meeting the following requirements:

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

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

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

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

(1) File with the commissioner a surety bond in the amount of not less than \$100,000, in a form acceptable to the commissioner, issued by an insurance company authorized to conduct business in this state, securing the applicant's or licensee's faithful performance of all duties and obligations of a licensee meeting the requirements set forth in ~~paragraphs subsections~~ (a)(1), (a)(2) and (a)(3) of this ~~act~~ ~~section~~; and

(2) submit evidence that establishes, to the commissioner's satisfaction, that the applicant or licensee shall at all times maintain a minimum net worth of \$50,000. Evidence of net worth shall include the submission of a balance sheet of the applicant or a consolidated financial statement of the entity that owns or controls the applicant accompanied by a written statement by an independent certified public accountant attesting that the balance sheet or the consolidated financial statement has been reviewed in accordance with generally accepted accounting principles. *Should the applicant or licensee choose a different accounting system other than generally accepted accounting principles, the burden to demonstrate that the accounting principles meet or exceed the generally accepted accounting principles shall be on the applicant or licensee using the alternate accounting principle method.*

Sec. 12. K.S.A. 2016 Supp. 9-2216a is hereby amended to read as follows: 9-2216a. (a) Each licensee shall annually, on or before April 1, file a written report with the commissioner containing the information that the commissioner may reasonably require concerning the licensee's business and operations during the preceding calendar year. The report shall be made in the form prescribed by the commissioner, which may include reports filed with the nationwide mortgage licensing system and

registry. Any licensee who fails to file the report required by this section with the commissioner by April 1 shall be subject to a late penalty of \$100 for each day after April 1 the report is delinquent, but in no event shall the aggregate of late penalties exceed \$5,000. The commissioner may relieve any licensee from the payment of any penalty, in whole or in part, for good cause. The filing of the annual written report required under this section shall satisfy any other reports required of a licensee under this act.

*(b) Information contained in the annual report shall be confidential and may be published only in composite form. The provisions of this subsection shall expire on July 1, 2022, unless the legislature reviews and reenacts this provision prior to July 1, 2022.*

Sec. 13. K.S.A. 2016 Supp. 50-1117 is hereby amended to read as follows: 50-1117. Definitions as used in this act: (a) “Commissioner” means the state bank commissioner or *designee, who shall be the deputy commissioner of the consumer and mortgage lending division of the office of the state bank commissioner.*

(b) “Consumer” means an individual who is a resident of this state.

(c) “Credit services organization” means a person who engages in, or holds out to the public as willing to engage in, the business of debt management services for a fee, compensation or gain, or in the expectation of a fee, compensation or gain.

(d) “Debt management service” means:

(1) Receiving or offering to receive funds from a consumer for the purpose of distributing the funds among such consumer’s creditors in full or partial payment of such consumer’s debts;

(2) improving or offering to improve a consumer’s credit record, history ~~or~~, rating or score; or

(3) negotiating or offering to negotiate to defer or reduce a consumer’s obligations with respect to credit extended by others.

(e) “Insolvent” means a person whose debts exceed their assets.

(f) “Law firm” means a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

(g) “Licensee” means a person who is licensed by the commissioner as a credit services organization.

(h) “Nationwide mortgage licensing system and registry” means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of licensed mortgage loan originators and other financial service providers.

(i) “Person” means any individual, corporation, partnership, associa-

tion, unincorporated organization or other form of entity, however organized, including a nonprofit entity.

- ~~(h) "Related interest" means a person:~~
  - ~~(1) With respect to an individual who is:~~
    - ~~(A) The spouse of the individual;~~
    - ~~(B) a brother, brother-in-law, sister, sister-in-law of the individual;~~
    - ~~(C) an ancestor or lineal descendant of the individual or the individual's spouse; and~~
    - ~~(D) any other relative, by blood, adoption or marriage, of the individual or such individual's spouse who shares the same residence with the individual.~~
  - ~~(2) With respect to a corporation, partnership, association, unincorporated organization or other form of entity, however organized, including a nonprofit entity, which is:~~
    - ~~(A) Directly or indirectly controlling, controlled by or under common control by a person; or~~
    - ~~(B) an officer or director of a person or a person performing similar functions.~~

~~(i) "Registrant" means a person who is registered by the commissioner as a credit services organization.~~

~~(j) "Trust account" means an account established by the applicant or registrant licensee in a federally insured financial institution used to hold funds paid by consumers to a credit services organization for disbursement to creditors of consumers that is designated as a trust account or other appropriate designation indicating the funds in the account are:~~

- ~~(1) Not funds of the applicant or registrant licensee or its owners, officers or employees; and~~
- ~~(2) unavailable to creditors of the applicant or registrant licensee.~~

~~Sec. 14. K.S.A. 50-1118 is hereby amended to read as follows: 50-1118. (a) No person shall engage in, or hold such person out as willing to engage in any credit services organization business with a resident of this state without first obtaining registration licensing from the commissioner. Any person required to be registered licensed as a credit services organization shall submit to the commissioner an application for registration licensing on forms prescribed and provided by the commissioner. The application for registration licensing shall include:~~

- ~~(1) The applicant's name, business address, telephone number and website address, if any;~~
- ~~(2) the name and address of each owner, officer, director, member or partner of the applicant;~~
- ~~(3) a description of the ownership interest of any officer, director, member, partner, agent or employee of the applicant in any affiliate or subsidiary of the applicant or in any other entity that provides any service~~

~~(1) Not funds of the applicant or registrant licensee or its owners, officers or employees; and~~

~~(2) unavailable to creditors of the applicant or registrant licensee.~~

~~Sec. 14. K.S.A. 50-1118 is hereby amended to read as follows: 50-1118. (a) No person shall engage in, or hold such person out as willing to engage in any credit services organization business with a resident of this state without first obtaining registration licensing from the commissioner. Any person required to be registered licensed as a credit services organization shall submit to the commissioner an application for registration licensing on forms prescribed and provided by the commissioner. The application for registration licensing shall include:~~

- ~~(1) The applicant's name, business address, telephone number and website address, if any;~~
- ~~(2) the name and address of each owner, officer, director, member or partner of the applicant;~~
- ~~(3) a description of the ownership interest of any officer, director, member, partner, agent or employee of the applicant in any affiliate or subsidiary of the applicant or in any other entity that provides any service~~

to the applicant or any consumer relating to the applicant's credit services organization business;

(4) a description of the applicant's consumer education program; and

(5) any other information the commissioner may deem necessary to evaluate the financial responsibility and condition, character, qualifications and fitness of the applicant.

(b) Each application for ~~registration~~ *licensing* shall be accompanied by a nonrefundable fee ~~of \$100 which shall be established by the commissioner through the adoption of rules and regulations. The amount of the registration fee may be increased by rules and regulations adopted by the commissioner.~~

(c) The application shall be approved and a nontransferable and non-assignable ~~registration~~ *license* shall be issued to the applicant provided:

(1) The commissioner has received the complete application and fee required by this section; and

(2) the commissioner determines the financial responsibility and condition, character, qualifications and fitness of the applicant warrants a belief ~~that~~ the business of the applicant will be conducted competently, honestly, fairly and in accordance with all applicable state and federal laws.

(d) Each credit services organization ~~registration~~ *license* issued under this section shall expire on ~~June~~ *April* 30 of each year. A ~~registration~~ *license* shall be renewed by filing with the commissioner, at least 30 days prior to the expiration of the ~~registration~~ *license*, a complete renewal application, containing information the commissioner requires to determine the existence and effect of any material changes from the information contained in the applicant's original application, annual reports or prior renewal applications. Each renewal shall be accompanied by a non-refundable renewal fee which shall be established by rules and regulations of the commissioner.

(e) If the commissioner fails to issue a ~~registration~~ *license* within 60 days after a filed application is deemed complete by the commissioner, the applicant may make written request for hearing. The commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

Sec. 15. K.S.A. 50-1119 is hereby amended to read as follows: 50-1119. Each applicant or ~~registrant~~ *licensee* shall file with the commissioner a surety bond in a form acceptable to the commissioner. The surety bond shall be issued by a surety or insurance company authorized to conduct business in this state, securing the applicant's or ~~registrant's~~ *licensee's* faithful performance of all duties and obligations of a ~~registrant~~ *licensee*. The surety bond shall:

(a) Be payable to the office of the state bank commissioner;

(b) provide that the bond may not be terminated without 30 days

prior written notice to the commissioner, *and that such termination shall not affect the surety's liability for violations of the Kansas credit services organization act occurring prior to the effective date of cancellation, and principal and surety shall be and remain liable for a period of two years from the date of any action or inaction of principal that gives rise to a claim under the bond;*

(c) provide that the bond shall not expire for two years after the date of surrender, revocation or expiration of the applicant's or ~~registrant's registration licensee's~~ license, whichever shall first occur;

(d) be available for:

(1) The recovery of expenses, fines and fees levied by the commissioner under this act; and

(2) payment of losses or damages which are determined by the commissioner to have been incurred by any consumer as a result of the applicant's or ~~registrant's~~ licensee's failure to comply with the requirements of this act; and

(e) the amount of the bond shall be \$25,000. The amount of the bond may be increased up to \$1,000,000, as further defined by rules and regulations adopted by the commissioner.

Sec. 16. K.S.A. 50-1120 is hereby amended to read as follows: 50-1120. ~~No credit services organization~~ *person required to be licensed by this act shall engage in debt management services unless:*

(a) ~~The registrant provides~~ *licensee has provided* the consumer with a credit education program designed to improve the financial literacy of the consumer.

(b) ~~The registrant licensee~~ has:

(1) (A) Taken reasonable steps to identify all creditors of a consumer; and

(B) prepared and provided to the consumer a written financial analysis of ~~and an~~ initial budget plan for all of the consumer's debt obligations which indicates the consumer can reasonably meet the requirements set forth in the budget plan; ~~and~~ *For purposes of the initial budget plan, the licensee shall include all outstanding debt obligations as listed on the consumer's credit report as well as any debt obligations identified by the consumer; and*

(2) provided to the consumer a list of each creditor the ~~registrant licensee~~ reasonably expects:

(A) To participate in the ~~plan~~ *debt management services agreement;* and

(B) not to participate in the ~~plan~~ *debt management services agreement.*

(c) ~~The registrant licensee~~ and the consumer have entered into a written debt management services agreement and a copy of the signed agreement has been provided to the consumer by the ~~registrant licensee~~. Such

agreement shall be in at least 12 point type, signed and dated by the consumer and ~~registrant licensee~~ and include:

(1) The *full legal name, doing business as “dba” name, address, and phone number of the consumer and the registrant licensee;*

(2) *the name, address and phone number of the consumer;*

(3) a description of the debt management services to be provided to the consumer and an itemization of any fees to be charged to the consumer;

~~(3)~~(4) a notice of the consumer’s right to rescind the debt management services agreement at any time by giving written notice of rescission to the ~~registrant licensee;~~

~~(4)~~(5) a schedule of payments, including the amount and due date of each payment, that the consumer must make to the ~~registrant licensee~~ for disbursement to such consumer’s creditors;

~~(5)~~(6) a list of each participating creditor of the consumer to which payments will be made by the ~~registrant licensee~~ under the debt management services agreement. The listing shall include the:

(A) Amount owed to each creditor;

(B) amount of each payment;

(C) date on which each payment will be made; and

(D) anticipated payoff date for each creditor;

~~(6)~~(7) the name of each creditor that the ~~registrant licensee~~ reasonably expects not to participate in the debt management ~~plan services agreement;~~

~~(7)~~(8) a disclosure that the ~~registrant licensee~~ also may receive compensation from the consumer’s creditors for providing debt management services to the consumer;

~~(8)~~(9) a disclosure that the ~~registrant licensee~~ may not, as a condition of entering into a debt management services agreement, require a consumer to purchase any other product or service, nor solicit or offer to sell any other product or service to the consumer during the term of the debt management services agreement;

~~(9)~~(10) a disclosure that the ~~registrant licensee~~ may not require a voluntary contribution from a consumer for any service provided by the ~~registrant licensee~~ to the consumer;

~~(10)~~(11) a disclosure that, by executing the debt management services agreement, the consumer authorizes any financial institution in which the ~~registrant licensee~~ has established a trust account for the deposit of the consumer’s funds to disclose to the commissioner any financial records relating to the trust account during the course of any investigation or examination by the commissioner; and

~~(11)~~(12) ~~the following~~ a notice *substantially similar to the following:* “The Kansas Office of the State Bank Commissioner ~~will accept~~ *accepts* questions and complaints from consumers regarding (name and ~~registra-~~



tion license number of ~~registrant licensee~~ licensee) at 700 SW Jackson, Suite 300, Topeka, Kansas, 66603, or by calling toll-free 1-877-387-8523”.

(d) *All solicitations and published advertisements concerning a credit services organization directed at Kansas residents, including those on the internet or by other electronic means, shall contain the name and license number of the licensee on record with the commissioner. Each licensee shall maintain a record of all solicitations or advertisements for a period of 36 months. For purposes of this subsection, “advertising” does not include business cards or promotional items.*

(e) *No solicitation or advertisement shall contain false, misleading or deceptive information.*

(f) *No licensee shall conduct credit services organization business in this state using any name other than the name or names stated on its license.*

Sec. 17. K.S.A. 50-1121 is hereby amended to read as follows: 50-1121. No person required to be ~~registered~~ licensed under this act shall:

(a) Delay payment of a consumer’s debt for the purpose of increasing interest, costs, fees or charges payable by the consumer.

(b) Make any misrepresentation of any material fact or false promise ~~intended~~ to:

(1) Influence, persuade or induce a consumer to enter into a debt management services agreement; or

(2) cause or contribute to any misrepresentation by any other person acting on such person’s behalf.

(c) Make or use any false or misleading representation in the offer or sale of the services of a debt management services agreement or credit services organization business, ~~including, but not limited to, guaranteeing to “erase bad credit” or words to that effect unless the representation clearly discloses that guaranteed action can be done only if the consumer’s credit history is inaccurate or obsolete.~~

(d) Engage, directly or indirectly, in any fraudulent or deceptive act, practice or course of business in connection with the offer or sale of the services of a credit services organization.

(e) Make, or advise a consumer to make, any statement with respect to a consumer’s credit worthiness, credit standing or credit capacity that is false or misleading, or that should be known by the exercise of reasonable care to be false or misleading, to a consumer reporting agency or to a person who has extended credit to a consumer or to whom a consumer is applying for an extension of credit.

(f) Advertise or cause to be advertised, ~~in any manner whatsoever,~~ the services of a credit services organization to Kansas consumers without first obtaining proper ~~registration~~ licensure from the commissioner.

(g) Receive compensation for rendering debt management services where the person has otherwise acted as a creditor for the consumer.

(h) Transfer, assign or attempt to transfer or assign, a ~~registration license~~ to any other person.

(i) Conduct credit services organization activities using any name other than the name or names approved by the commissioner.

(j) Operate as a collection agency.

(k) Receive or charge any fee in the form of a promissory note or other promise to pay.

(l) Accept or receive any reward, bonus, premium, commission or any other consideration for referring a consumer to any person ~~or related interest~~.

(m) Give a reward, bonus, premium, commission or any other consideration for the referral of a consumer to the ~~registrant's licensee's~~ credit services organization business *and charge the consumer for the amount*.

(n) Lend money or provide credit to a consumer.

(o) Obtain a mortgage or other security interest in real or personal property owned by a consumer.

(p) Structure a debt management services agreement in any manner that would result in a negative amortization of any of the consumer's debts.

(q) Charge for or provide credit insurance.

(r) Purchase any debt or obligation of a consumer.

(s) Use any communication which simulates in any manner a legal or judicial process, or which gives the false appearance of being authorized, issued or approved by a government, governmental agency or attorney-at-law.

(t) While operating as a ~~registrant licensee~~, or a director, manager or officer of such ~~registrant or any related interest of such registrant licensee~~, be a director, manager, officer, ~~or owner or related interest~~ of any creditor or a subsidiary of any such creditor, that is receiving or will receive payments from the ~~registrant licensee~~ on behalf of a consumer with whom the ~~registrant licensee~~ has entered into a debt management services agreement.

(u) Attempt to cause a consumer to waive or agree to forego rights or benefits under this act.

Sec. 18. K.S.A. 50-1122 is hereby amended to read as follows: 50-1122. (a) Within four calendar days after receipt of any funds paid to the ~~registrant licensee~~ by or on behalf of a consumer for disbursement to such consumer's creditors, a ~~registrant licensee~~ shall deposit such funds in a trust account established for the benefit of consumers.

(b) A ~~registrant licensee~~ shall:

(1) Maintain separate records of account for each consumer to whom the ~~registrant licensee~~ provides debt management services;

(2) disburse any funds paid by or on behalf of a consumer to such consumer's creditors within ~~10~~ 20 calendar days after receipt of such

funds or the latest date before the consumer would incur any fee, charge or penalty due to delay in payment;

(3) correct any misdirected payments resulting from an error by the ~~registrant~~ licensee;

(4) reimburse the consumer for any actual fees or other charges imposed by a creditor as a result of the misdirection; and

(5) disburse a consumer's funds from the trust account only to such consumer's creditors or back to the consumer.

(c) If a consumer rescinds the debt management services agreement, all funds held in the trust account on behalf of such consumer shall be refunded to the consumer within 10 calendar days from receipt of rescission by the ~~registrant~~ licensee.

(d) A ~~registrant~~ licensee shall not commingle any trust account established for the benefit of consumers with any operating accounts of the ~~registrant or its related interests~~ licensee.

Sec. 19. K.S.A. 50-1123 is hereby amended to read as follows: 50-1123. A ~~registrant~~ licensee shall provide a report at least once every three months to each consumer who has entered into a debt management services agreement with the ~~registrant~~ licensee. The report shall include the:

(a) Total amount received from the consumer to date;

(b) total amount paid to each creditor to date;

(c) total *payoff* amount ~~any or an estimated balance due to each creditor has agreed to accept as payment in full~~ on any debt owed by the consumer;

(d) ~~any~~ fees paid to the ~~registrant~~ licensee by the consumer; and

(e) ~~any~~ amount held in the trust account on behalf of the consumer, or statement that no amount is currently held.

Sec. 20. K.S.A. 50-1124 is hereby amended to read as follows: 50-1124. (a) (1) On or before ~~March~~ April 1, of each year, each ~~registrant~~ licensee shall file with the commissioner an annual report relating to credit services organization business conducted by the ~~registrant~~ licensee during the preceding calendar year. The annual report shall be on a form prescribed by the commissioner.

(2) *The information contained in the annual report shall be confidential and may be published only in composite form. The provisions of this paragraph shall expire on July 1, 2022, unless the legislature reviews and reenacts the provision prior to July 1, 2022.*

(b) Within 15 calendar days after the occurrence of any of the following events, a ~~registrant~~ licensee shall file a written report with the commissioner describing the event and its expected impact on the ~~registrant's~~ licensee's business:

(1) The filing for bankruptcy or reorganization by the ~~registrant~~ licensee;

(2) the institution of a revocation, suspension or other proceeding

against the ~~registrant~~ licensee by a governmental authority that is related to the ~~registrant's~~ licensee's credit services organization business in any state; and

(3) a felony conviction of the ~~registrant~~ licensee or any of its owners, officers, principals, directors, partners, members or debt management counselors;

(4) a change in the licensee's name or legal entity status; and

(5) the addition or loss of any owner, officer, partner or director.

(c) If a ~~registrant~~ licensee fails to make any report required by this section to the commissioner, the commissioner may require the ~~registrant~~ licensee to pay a late penalty of \$100 for each day the report is overdue.

Sec. 21. K.S.A. 50-1125 is hereby amended to read as follows: 50-1125. (a) Each ~~registrant~~ licensee shall maintain and preserve complete and adequate business records including a general ledger containing all assets, liabilities, capital, income and expense accounts for a period of five years.

(b) Each ~~registrant~~ licensee shall maintain and preserve complete and adequate records of each debt management services agreement during the term of the agreement and for a period of five years from the date of cancellation or completion of the agreement with each consumer. Such records shall contain all consumer information including, but not limited to, the debt management services agreement and any extensions thereto, payments, disbursements, charges and correspondence.

(c) If the ~~registrant's~~ licensee's records are located outside this state, the ~~registrant~~ licensee shall provide the records to the commissioner within three calendar days or, at the commissioner's discretion, pay reasonable and necessary expenses for the commissioner or commissioner's designee to examine them at the place where they are maintained.

Sec. 22. K.S.A. 50-1126 is hereby amended to read as follows: 50-1126. (a) No ~~registrant~~ licensee shall impose any fees or other charges on a consumer, or receive any funds or other payments from a consumer or another person on behalf of a consumer:

(1) Except as provided in ~~paragraph (5) of~~ subsection (b)(5), until after the ~~registrant~~ licensee and consumer have executed a debt management services agreement; and

(2) except as allowed under this section, or as permitted by rule and regulation adopted by the commissioner.

(b) A ~~registrant~~ licensee may:

(1) Charge a one-time consultation fee not exceeding ~~\$50~~ \$75. The cost of a credit report on a consumer shall be paid from the consultation fee paid by the consumer;

(2) charge and collect monthly the lesser of a total maintenance fee of ~~\$20~~ \$40 per month, or \$5 per month for each creditor of a consumer

that is listed in the debt management services agreement between the ~~registrant~~ licensee and the consumer;

(3) collect from or on behalf of a consumer the funds for disbursement to creditors that the consumer has agreed to pay to the ~~registrant~~ licensee under the debt management services agreement;

(4) accept a voluntary contribution from a consumer for a debt management service provided by the ~~registrant~~ licensee to the consumer if the aggregate amount of the voluntary contribution and any other fees received by the ~~registrant~~ licensee from the consumer does not exceed the total amount the ~~registrant~~ licensee is authorized to charge the consumer under paragraphs (1) and (2) of this subsection;

(5) charge the consumer, ~~if provided to the consumer,~~ a reasonable fee, ~~not to exceed \$50,~~ for a *providing reverse mortgage counseling, bankruptcy counseling, student loan counseling, other counseling-session services authorized by the commissioner,* an educational program, or materials and supplies ~~if the consumer does not enter into a debt management services agreement with the registrant; and~~

(6) accept fee payments from a consumer's creditors for debt management services rendered to a consumer, provided the consumer's creditor does not assess the fee to the consumer;

(7) charge the consumer up to \$30 one time for each insufficient payment; and

(8) charge the consumer up to \$5 to process a payment made by the consumer to the credit services organization through electronic means, if authorized by the consumer. No charge shall be assessed where the consumer has agreed to make all scheduled payments by electronic means.

(c) A licensee may waive any of the fees permitted in subsections (b)(1) through (b)(8) if the licensee determines that the consumer is unable to pay the fees.

~~(c)~~(d) No ~~registrant~~ licensee shall:

(1) Charge ~~a~~ an additional fee to a consumer, if the consumer enters into a debt management services agreement with the ~~registrant~~ licensee, to:

(A) Prepare a financial analysis or an initial budget plan for the consumer;

(B) counsel a consumer about debt management;

(C) provide a consumer with the consumer education program described in the ~~registrant's~~ licensee's application to engage in business as a credit services organization; or

(D) rescind a debt management services agreement.

(2) Require a voluntary contribution from a consumer for any service provided by the ~~registrant~~ licensee to the consumer.

(3) As a condition of entering into a debt management services agreement, require a consumer to purchase for a fee a counseling session, an educational program or materials and supplies.

(d) If a ~~registrant~~ *licensee* imposes any fee or other charge or receives any funds or other payments not authorized under this section, except as a result of an accidental and bona fide error:

- (1) The debt management services agreement shall be void; and
- (2) the ~~registrant~~ *licensee* shall return the amount of the unauthorized fees, charges, funds or payments to the consumer.

Sec. 23. K.S.A. 50-1127 is hereby amended to read as follows: 50-1127. The commissioner may deny, suspend, revoke or refuse to renew a ~~registration~~ *license* issued pursuant to this act, and amendments thereto, if the commissioner finds, after notice and opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that:

(a) The applicant or ~~registrant~~ *licensee* has repeatedly or willfully violated any provision of this act, any rule and regulation promulgated thereunder or any order lawfully issued by the commissioner pursuant to this act;

(b) the applicant or ~~registrant~~ *licensee* has failed to file and maintain the surety bond required under this act;

(c) the applicant or ~~registrant~~ *licensee* is insolvent;

(d) the applicant or ~~registrant~~ *licensee* has filed with the commissioner any document or statement containing any false representation of a material fact or omitting to state a material fact;

(e) the applicant, ~~registrant~~ *licensee* or any officer, director, member, owner, partner, principal or debt management counselor thereof has been convicted of any crime;

(f) the applicant or ~~registrant~~ *licensee* fails to keep and maintain sufficient records to permit an audit satisfactorily disclosing to the commissioner the applicant's or ~~registrant's~~ *licensee's* compliance with the provision of this act;

(g) the applicant, ~~registrant~~ *licensee* or an employee of the applicant or ~~registrant~~ *licensee* has been the subject of any disciplinary action by the commissioner or any other state or federal regulatory agency;

(h) a final judgment has been entered against the applicant or ~~registrant~~ *licensee* in a civil action and the commissioner finds the conduct on which the judgment is based indicates that it would be contrary to the public interest to permit such person to be ~~registered~~ *licensed*;

(i) the applicant or ~~registrant~~ *licensee* has engaged in any deceptive business practice;

(j) facts or conditions exist which would have justified the denial of the ~~registration~~ *license* or renewal had such facts or conditions existed or been known to exist at the time the application for ~~registration~~ *license* or renewal was made; or

(k) the applicant or ~~registrant~~ *licensee* has refused to furnish infor-

mation required by the commissioner within a reasonable period of time as established by the commissioner.

Sec. 24. K.S.A. 50-1128 is hereby amended to read as follows: 50-1128. This act shall be administered by the commissioner. In addition to other powers granted by this act, the commissioner, within the limitations provided by law, may exercise the following powers:

(a) Adopt, amend and revoke rules and regulations as necessary to carry out the intent and purpose of this act.

(b) Make any investigation and examination of the ~~registrant's~~ operations, books and records of a credit services organization, as the commissioner deems necessary:

~~(1) For the protection of the public;~~

~~(2) to determine whether any registration should be granted, denied or revoked;~~

~~(3) to determine whether any person has violated or is about to violate any provision of this act, any rule and regulation promulgated thereunder or any order issued thereunder; or~~

~~(4) to aid in the enforcement of this act.~~

~~(c)(1) For examination purposes~~The commissioner, or the commissioner's designee, shall have free and reasonable access to the offices, places of business and all records of the ~~registrant and the registrant's related interests~~ licensee that relate to the debt management or credit services organization business. The commissioner may designate persons, including comparable officials of the state in which the records are located, to inspect the records on the commissioner's behalf.

~~(d)(2) The commissioner may charge reasonable costs, including a per diem and actual travel and lodging expenses, of investigation, administration or examination to be paid by the applicant or registrant under investigation, examination or requiring administrative action, and of investigation, examination and administration of this act, to be paid by the applicant or licensee, in such amounts as the commissioner may determine to be sufficient to meet the budget requirements of the commissioner for each fiscal year. The commissioner may maintain an action in any court to recover such costs.~~

~~(e)(c)~~ To order any ~~registrant~~ licensee or person to cease any activity or practice which the commissioner deems to be deceptive, dishonest, or a violation of this act, or of other state or federal law, or unduly harmful to the interests of the public.

~~(f)(d) (1)~~ Exchange any information regarding the administration of this act with any agency of the United States or any state which regulates the applicant or ~~registrant~~ licensee or administers statutes, rules and regulations or programs related to debt management or credit services organization laws.

(2) Examination reports and correspondence regarding such reports

*made by the commissioner or the commissioner's designees shall be confidential.* The commissioner may release examination reports and correspondence regarding the reports in connection with a disciplinary proceeding conducted by the commissioner, a liquidation proceeding or a criminal investigation or proceeding. Additionally, the commissioner may furnish to federal or other state regulatory agencies or any officer or examiner thereof, a copy of any or all examination reports and correspondence regarding the reports made by the commissioner or the commissioner's designees. *The provisions of this paragraph shall expire on July 1, 2022, unless the legislature reviews and reenacts this provision prior to July 1, 2022.*

~~(g)~~(e) Disclose to any person or entity that an applicant's or ~~registrant's~~ licensee's application or ~~registration~~ license has been denied, suspended, revoked or refused renewal.

~~(h)~~(f) Require or permit any person to file a written statement, under oath or otherwise as the commissioner may direct, setting forth all the facts and circumstances concerning any apparent violation of this act, any rule and regulation promulgated hereunder, or any order issued pursuant to this act.

~~(i)~~(g) Receive, as a condition in settlement of any investigation or examination, a payment designated for consumer education to be expended for such purpose as directed by the commissioner.

~~(j)~~(h) Delegate the authority to sign any orders, official documents or papers issued under or related to this act to the deputy of consumer and mortgage lending in the office of the state bank commissioner.

~~(k)~~(i) Require fingerprinting of any ~~registrant~~ licensee, agent acting on behalf of a ~~registrant~~ licensee or other person as deemed appropriate by the commissioner, or the commissioner's designee. The commissioner, or commissioner's designee, may submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation or other law enforcement agency for the purposes of verifying the identity of such persons and obtaining records of their criminal arrests and convictions. *For purposes of this section and in order to reduce the points of contact that the federal bureau of investigation may have to maintain with the individual states, the commissioner may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.*

(j) *Use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing information regarding credit services organization licensing to and from any source so directed by the commissioner.*

(k) *Establish relationships or contracts with the nationwide mortgage licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants,*



*licensees or other persons subject to this act, and to take other such actions as may be reasonably necessary to participate in the nationwide mortgage licensing system and registry.*

(l) Charge, establish and collect from ~~registrants~~ *licensees* such fees as are necessary and in such amounts as the commissioner may determine to be sufficient to meet the expense requirements of the commissioner in administering this act.

(m) Seize and distribute a ~~registrant's~~ *licensee's* trust account funds to protect consumers and the public interest.

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

(o) *To enter into any informal agreement with any person for a plan of action to address violations of this act. The adoption of an informal agreement authorized by this subsection shall not be subject to the provisions of the Kansas administrative procedure act or the Kansas judicial review act. Any informal agreement authorized by this subsection shall not be considered an order or other agency action, and shall be considered confidential examination material pursuant to K.S.A. 50-1128(d), and amendments thereto. All such examination material shall be confidential by law and privileged, shall not be subject to the open records act, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. The provisions of this subsection shall expire on July 1, 2022, unless the legislature reviews and reenacts this provision prior to July 1, 2022.*

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

Sec. 25. K.S.A. 50-1129 is hereby amended to read as follows: 50-1129. (a) If the commissioner determines after notice and opportunity for a hearing pursuant to the Kansas administrative procedure act that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act or any rule and regulation promulgated or order issued thereunder, the commissioner by order may require any or all of the following:

(1) That the person cease and desist from the unlawful act or practice;

(2) that the person pay a fine not to exceed \$10,000 per incident for the unlawful act or practice;

(3) *if any person is found to have violated any provision of this act and such violation is committed against elder or disabled persons as defined in K.S.A. 50-676, and amendments thereto, the commissioner may impose an additional penalty not to exceed \$10,000 for each such violation, in addition to any civil penalty otherwise provided by law;*

(4) *issue an order requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation. Such order may include the assessment of interest not to exceed 8% per annum from the date of the violation;*

(5) that the person take such affirmative action as in the judgment of the commissioner will carry out the purposes of this act; or

~~(4)(6)~~ that the person be barred from subsequently applying for ~~registration~~ licensure under this act.

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commissioner may issue an emergency cease and desist order.

(1) Such emergency order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto.

(2) Upon the entry of such an emergency order, the commissioner shall promptly notify the person subject to the order that it has been entered, of the reasons, and that a hearing will be held upon written request by the person.

(3) If the person requests a hearing, or in the absence of any request, if the commissioner determines that a hearing should be held, the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Upon completion of the hearing the commissioner shall, by written findings of fact and conclusions of law vacate, modify or make permanent the emergency order.

(4) If no hearing is requested and none is ordered by the commissioner, the emergency order shall remain in effect until such order is modified or vacated by the commissioner.

Sec. 26. K.S.A. 9-2204, 50-1118, 50-1119, 50-1120, 50-1121, 50-1122, 50-1123, 50-1124, 50-1125, 50-1126, 50-1127, 50-1128 and 50-1129 and K.S.A. 2016 Supp. 9-508, 9-509, 9-513a, 9-1101, 9-1102, 9-1104, 9-1114, 9-2203, 9-2206, 9-2211, 9-2216a and 50-1117 are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the statute book.

## CHAPTER 53

## SENATE BILL No. 50

AN ACT concerning attorneys; relating to the Kansas consumer protection act; unauthorized practice of law; membership of the advisory committee on uniform state laws and the joint committee on special claims against the state; amending K.S.A. 46-407a and K.S.A. 2016 Supp. 46-912 and repealing the existing sections.

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

New Section 1. (a) A person who is not licensed or otherwise authorized by the Kansas supreme court to practice law in this state shall not do any of the following:

(1) Commit any act or omission that is prohibited by the Kansas supreme court, either by court rule or by common law, as being the unauthorized practice of law;

(2) hold out to the public or otherwise represent, expressly or by implication, that such person is admitted to practice law in this state;

(3) solicit payment or other consideration, whether in cash or in-kind, for services that would constitute the unauthorized practice of law in this state if performed at or about the time of such solicitation; or

(4) offer or attempt to do any act prohibited by this subsection.

(b) A violation of subsection (a) constitutes an unconscionable act or practice in violation of K.S.A. 50-627, and amendments thereto, whether or not it involves a consumer, a consumer transaction or a supplier, as defined in K.S.A. 50-624, and amendments thereto.

(c) For the purposes of this section:

(1) "Person" means an individual who, or any corporation, agency, partnership, association or other legal entity that, knowingly commits acts or omissions that violate this section or aids or abets a person to commit acts or omissions that violate this section;

(2) a person described in subsection (a) shall be deemed a supplier within the meaning of K.S.A. 50-624, and amendments thereto; and

(3) an individual, sole proprietor, partnership, corporation, limited liability company, the state or a subdivision or agency of the state aggrieved by a violation of subsection (a) shall be deemed a consumer within the meaning of K.S.A. 50-624, and amendments thereto.

(d) Any remedies or penalties imposed pursuant to this section shall be in addition to, and not instead of, any remedies or penalties available under the contempt power of any court.

(e) The provisions of this section shall not apply to statewide, judicial district or municipal court-supervised public assistance offices and programs, victims assistance programs operated by a county or district attorney, court clerk, county law library, legal aid services providers, legal outreach programs operated by a state or local bar association or an employee of any such entity acting within the scope of employment.

(f) This section shall be part of and supplemental to the Kansas consumer protection act.

Sec. 2. K.S.A. 46-407a is hereby amended to read as follows: 46-407a.

(a) (1) There is hereby established an advisory committee to the Kansas commission on interstate cooperation. Such committee shall be composed of five members.

(2) Three of such members shall be members of the Kansas bar to be appointed by the commission with the advice of the president of the bar association of the state of Kansas and the incumbency of each such member of the committee shall extend until the first day of February of the odd-numbered year following appointment and thereafter until a successor is appointed. ~~The other two members shall be The chairpersons of the house and senate standing committees on judiciary, except that each such chairperson may appoint another member of the committee on judiciary of the same house who is an attorney to serve as a member in lieu of such chairperson for such member's then current term as a legislator.~~

(3) *One member shall be the chairperson of the standing house committee on judiciary, if such chairperson is a member of the Kansas bar, or such chairperson may designate another member of the standing house committee on judiciary who is a member of the Kansas bar to serve as a member in lieu of such chairperson for such chairperson's then-current term as a legislator. If such chairperson is not a member of the Kansas bar and there is not another member of the standing house committee on judiciary who is a member of the Kansas bar, the speaker of the house of representatives may designate the revisor of statutes to serve as a member in lieu of a house member for the speaker's then-current term as a legislator. The revisor of statutes may designate an assistant revisor to serve in lieu of the revisor.*

(4) *One member shall be the chairperson of the standing senate committee on judiciary, if such chairperson is a member of the Kansas bar, or such chairperson may designate another member of the standing senate committee on judiciary who is a member of the Kansas bar to serve as a member in lieu of such chairperson for such chairperson's then-current term as a legislator. If such chairperson is not a member of the Kansas bar and there is not another member of the standing senate committee on judiciary who is a member of the Kansas bar, the president of the senate may designate the revisor of statutes to serve as a member in lieu of a senate member for the president's then-current term as a legislator. The revisor of statutes may designate an assistant revisor to serve in lieu of the revisor.*

(b) The members of such committee shall be the official representatives or delegates of the state of Kansas to the national conference of commissioners on uniform state laws. Such committee shall account to

and advise with the Kansas commission on interstate cooperation and it shall be its duty to investigate and consider the advisability or uniformity of the laws of the several states and to make recommendations on all subjects where uniformity may be desirable and practical. Such committee shall report to the Kansas commission on interstate cooperation from time to time on its activities and make such recommendations as it deems advisable for appropriate legislation.

(c) (1) Members of the committee shall be paid compensation and travel expenses and subsistence expenses or allowances for attendance at meetings of the committee as authorized by K.S.A. 75-3212, *and amendments thereto*.

(2) Any person who by reason of membership on such committee has been accredited by the national conference of commissioners on uniform state laws as a life member of that organization shall be an associate member of the committee and shall receive the same travel expenses and subsistence expenses for attendance at meetings as regular members of the committee, but shall receive no per diem compensation. Whenever any regular member of the committee shall be so accredited by the national conference of commissioners on uniform state laws, such member shall thereupon become an associate member and a vacancy shall exist in the regular membership of the committee. Such vacancy shall be filled by appointment by the commission with the advice of the president of the bar association of the state of Kansas.

(3) All amounts authorized under this section shall be paid by the Kansas commission on interstate cooperation.

Sec. 3. K.S.A. 2016 Supp. 46-912 is hereby amended to read as follows: 46-912. There is hereby established the joint committee on special claims against the state which shall have seven members consisting of three members of the senate and four members of the house of representatives. The representative members shall be appointed by the speaker, and the senator members shall be appointed by the senate committee on organization, calendar and rules. Of the members of the house, three members shall be from the majority party with the remaining member from the minority ~~part~~ party. Of the members of the senate, two members shall be from the majority party with the remaining member from the minority party. ~~Not less than one representative member and not less than one senator member shall be attorneys licensed to practice law in the state of Kansas.~~ Not less than one representative member shall be a member of the house committee on appropriations and not less than one senator member shall be a member of the senate committee on ways and means. In the biennium commencing with the convening of the regular session of the legislature in 1979, and in the biennium commencing with the convening of the regular session of the legislature each four years thereafter, the chairperson of the joint committee shall be a representa-

tive member designated by the speaker of the house of representatives. In the biennium commencing with the convening of the regular session of the legislature in 1981, and in the biennium commencing with the regular session of the legislature each four years thereafter, the senate committee on organization, calendar and rules shall designate a senator member to be the chairperson of the joint committee. If a chairperson shall die, resign or otherwise be incapable of serving as chairperson for the full two-year period, a successor shall be designated to fill the unexpired portion of such period in the same manner as the original chairperson was selected. The joint committee shall meet in the interim between legislative sessions on the call of the chairperson as authorized by the legislative coordinating council. Any four members of the joint committee shall constitute a quorum. Any action of such joint committee may be taken by an affirmative vote of a majority of the members present, if a quorum is present.

The provisions of article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee on special claims against the state to the extent the same do not conflict with the specific provisions of this act applicable to such committee.

Sec. 4. K.S.A. 46-407a and K.S.A. 2016 Supp. 46-912 are hereby repealed.

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

Approved April 18, 2017.

Published in the *Kansas Register* April 27, 2017.

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CHAPTER 54

Senate Substitute for Substitute for HOUSE BILL No. 2052  
(Amended by Chapters 95 and 104)

TO	SEC.	TO	SEC.
Abstracters' board of examiners	2	Hearing instruments, Kansas board of examiners	
Adjutant general	30	in fitting and dispensing of	5
Administration, department of	15	Highway patrol, Kansas	31
Aging and disability services, Kansas		Historical society, state	26
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Agriculture, Kansas department of	34	Labor, department of	18
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Barbering, Kansas board of	3	Pharmacy, state board of	7
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Corporation commission, state	13	State library	25
Corrections, department of	29	Tax appeals, state board of	16
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division of public health	20		

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2017, June 30, 2018, June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2016 Supp. 74-4920, 75-2263, 75-2319, 75-4209 and 75-6706 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 75-2319d.

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

Section 1. (a) For the fiscal years ending June 30, 2017, June 30, 2018, June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, capital improvement projects, fees, receipts, disbursements, procedures and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

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

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

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

Sec. 2.

ABSTRACTERS' BOARD OF EXAMINERS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 30(a) of chapter

104 of the 2015 Session Laws of Kansas on the abstracters' fee fund (016-00-2700-0100) of the abstracters' board of examiners is hereby increased from \$23,348 to \$26,348.

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,995 from the abstracters' fee fund (016-00-2700-0100) of the abstracters' board of examiners to the general fees fund (173-00-2197-2020) of the department of administration.

Sec. 3.

#### KANSAS BOARD OF BARBERING

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the board of barbering fee fund (100-00-2704-0100) of the Kansas board of barbering is hereby decreased from \$176,734 to \$173,579.

Sec. 4.

#### KANSAS STATE BOARD OF COSMETOLOGY

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the cosmetology fee fund (149-00-2706-0100) of the Kansas state board of cosmetology is hereby increased from \$993,258 to \$994,543.

Sec. 5.

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

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 40(a) of chapter 104 of the 2015 Session Laws of Kansas on the hearing instrument board fee fund (266-00-2712-9900) of the Kansas board of examiners in fitting and dispensing of hearing instruments is hereby increased from \$26,448 to \$31,933.

Sec. 6.

#### BOARD OF NURSING

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the board of nursing fee fund (482-00-2716-0200) of the board of nursing is hereby decreased from \$2,459,665 to \$2,430,848.

Sec. 7.

#### STATE BOARD OF PHARMACY

(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:



Prescription drug overdose data-driven prevention initiative — federal fund (531-00-3294-3294) ..... No limit

Sec. 8.

STATE BOARD OF VETERINARY EXAMINERS

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the veterinary examiners fee fund (700-00-2727-1100) of the state board of veterinary examiners is hereby decreased from \$393,111 to \$333,785.

Sec. 9.

LEGISLATURE

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

Operations (including official hospitality)	
(428-00-1000-0103) .....	\$634,413
Legislative information system (428-00-1000-0300) .....	\$697,977

Sec. 10.

DIVISION OF POST AUDIT

(a) On the effective date of this act, of the \$2,349,908 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 55(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operations (including legislative post audit committee) account (540-00-1000-0100), the sum of \$144,516 is hereby lapsed.

Sec. 11.

ATTORNEY GENERAL

(a) On the effective date of this act, of the \$4,860,924 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 59(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures account (082-00-1000-0103), the sum of \$2,315 is hereby lapsed.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2017, all moneys now and hereafter lawfully credited to and available in such fund or funds, except that expenditures shall not exceed the following:

Bail enforcement agents fee fund (082-00-2259-2259) .....	No limit
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Sec. 12.

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

(a) On the effective date of this act, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 38-2102, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$316,078 from the Kansas endowment for youth fund (365-00-7000-2000) to the state general fund.

Sec. 13.

STATE CORPORATION COMMISSION

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2017, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Energy grants management fund (143-00-3157-3150) .....	No limit
Carbon dioxide injection well and underground storage fund (143-00-2358-2500) .....	No limit
Compressed air energy storage fee fund (143-00-2454-2410) .....	No limit

Sec. 14.

CITIZENS' UTILITY RATEPAYER BOARD

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the utility regulatory fee fund (122-00-2030-2000) of the citizens' utility ratepayer board is hereby increased from \$915,214 to \$975,213.

Sec. 15.

DEPARTMENT OF ADMINISTRATION

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

Debt service refunding — 2016H .....	\$1,295,392
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(b) On the effective date of this act, of the \$2,640,800 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 185(b) of chapter 104 of the 2015 Session Laws of Kansas from the expanded lottery act revenues fund in the statehouse improvements — debt service account (173-00-1700-1701), the sum of \$2,549,792 is hereby lapsed.

Sec. 16.

STATE BOARD OF TAX APPEALS

(a) On the effective date of this act, of the \$798,281 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 87(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures account (562-00-1000-0103), the sum of \$232 is hereby lapsed.

Sec. 17.

DEPARTMENT OF COMMERCE

(a) On the effective date of this act, of the \$8,848,267 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 95(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the operating grant (including

official hospitality) account (300-00-1900-1110), the sum of \$2,294,138 is hereby lapsed.

(b) On the effective date of this act, of the \$1,353,181 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 95(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the innovation growth program account (300-00-1900-1187), the sum of \$1,621 is hereby lapsed.

(c) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$5,000 from the state affordable airfare fund (300-00-2679-2600) to the state general fund.

(d) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$3,026,150 from the state economic development initiatives fund to the state general fund.

Sec. 18.

DEPARTMENT OF LABOR

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the workmen’s compensation fee fund (296-00-2124-2220) of the department of labor is hereby increased from \$14,250,736 to \$14,508,236.

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the federal indirect cost offset fund (296-00-2302-2280) of the department of labor is hereby increased from \$92,940 to \$101,157.

(c) On the effective date of this act, the expenditure limitation for the payment of rehabilitation and repair projects established for the fiscal year ending June 30, 2017, by section 38(c) of chapter 12 of the 2016 Session Laws of Kansas on the workmen’s compensation fee fund (296-00-2124-2228) of the department of labor is hereby increased from \$257,500 to \$385,000.

Sec. 19.

KANSAS COMMISSION ON VETERANS AFFAIRS OFFICE

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

Scratch lotto — Kansas soldiers’ home	
(694-00-1000-0310) .....	\$14,885
Scratch lotto — veterans services (694-00-1000-0330) .....	\$21,202

(b) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the soldiers’ home fee fund

(694-00-2241-2100) of the Kansas commission on veterans affairs office is hereby increased from \$1,564,393 to \$1,612,860.

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the federal domiciliary per diem fund (694-00-3220) of the Kansas commission on veterans affairs office is hereby decreased from \$1,593,136 to \$1,400,109.

(d) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the federal long term care per diem fund (694-00-3232) of the Kansas commission on veterans affairs office is hereby increased from \$7,480,610 to \$7,832,931.

(e) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the commission on veterans affairs federal fund (694-00-3241-3340) of the Kansas commission on veterans affairs office is hereby decreased from \$196,050 to \$186,994.

Sec. 20.

DEPARTMENT OF HEALTH AND ENVIRONMENT —  
DIVISION OF PUBLIC HEALTH

(a) On the effective date of this act, of the amounts appropriated and reappropriated for the above agency for the fiscal year ending June 30, 2017, by section 103(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the vaccine purchases account (264-00-1000-0900), the sum of \$1,000,945 is hereby lapsed.

Sec. 21.

DEPARTMENT OF HEALTH AND ENVIRONMENT —  
DIVISION OF HEALTH CARE FINANCE

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

Other medical assistance (264-00-1000-3026) ..... \$25,194,310

Sec. 22.

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:

Larned state hospital — operating expenditures	
(410-00-1000-0103) .....	\$6,495,710
Osawatomie state hospital — operating expenditures	
(494-00-1000-0100) .....	\$9,000,000
Mental health and retardation services aid and assistance	
(039-00-1000-4001) .....	\$10,300,000
Community aid (039-00-1000-3004) .....	\$40,283,925

(b) On the effective date of this act, of the \$305,121,668 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the LTC — medicaid assistance — NF account (039-00-1000-0520), the sum of \$38,948,367 is hereby lapsed.

(c) On the effective date of this act, of the \$3,855,852 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 20(a) of chapter 111 of the 2016 Session Laws of Kansas from the state general fund in the state operations account (039-00-1000-0801), the sum of \$18,012 is hereby lapsed.

(d) On the effective date of this act, of the \$20,207,788 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 109(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the Larned state hospital — sexual predator treatment program account (410-00-1000-0200), the sum of \$41,577 is hereby lapsed.

(e) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the Kansas neurological institute fee fund (363-00-2059-2000) of the Kansas department for aging and disability services is hereby increased from \$1,296,245 to \$1,296,745.

(f) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the Larned state hospital fee fund (410-00-2073-2100) of the Kansas department for aging and disability services is hereby decreased from \$4,441,913 to \$2,547,409.

(g) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the Osawatimie state hospital fee fund (494-00-2079-4200) of the Kansas department for aging and disability services is hereby increased from \$5,989,674 to \$6,489,674.

(h) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the title XIX fund (039-00-2595-4130) of the Kansas department for aging and disability services is hereby decreased from \$42,533,932 to \$35,295,992.

(i) In addition to the other purposes for which expenditures may be made by the Kansas department for aging and disability services from the moneys appropriated from the state general fund or any special revenue fund or funds for fiscal year 2017 as authorized by chapter 104 of the 2015 Session Laws of Kansas, chapters 12 and 111 of the 2016 Session Laws of Kansas, this or other appropriation act of the 2017 regular session of the legislature, expenditures shall be made by the Kansas department for aging and disability services from such moneys appropriated in fiscal year 2017 in an amount not less than \$1,000,000 for the purpose of en-

tering into an agreement with community providers for targeted mental health residential treatment.

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:

Youth services aid and assistance (629-00-1000-7020) ..... \$4,015,411

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$393,307 from the children’s initiatives fund to the state general fund.

Sec. 24.

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:

Special education services aid (652-00-1000-0700) ..... \$1,341,828  
Supplemental general state aid (652-00-1000-0840) ..... \$3,635,104  
KPERs — employer contributions (652-00-1000-0100) ... \$218,017

(b) On the effective date of this act, of the \$2,760,946,624 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 3(a) of chapter 4 of the 2015 Session Laws of Kansas from the state general fund in the block grants to USDs account (652-00-1000-0500), the sum of \$143,993,394 is hereby lapsed.

(c) On the effective date of this act, of the \$4,971,500 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 3(a) of chapter 4 of the 2015 Session Laws of Kansas from the state general fund in the school district juvenile detention facilities and Flint Hills job corps center grants account (652-00-1000-0290), the sum of \$228,672 is hereby lapsed.

(d) On the effective date of this act, of the \$327,500 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 3(a) of chapter 4 of the 2015 Session Laws of Kansas from the state general fund in the governor’s teaching excellence scholarships and awards account (652-00-1000-0770), the sum of \$68,989 is hereby lapsed.

(e) On June 30, 2017, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$500,000 from the state safety fund to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting,

legal, payroll, personnel and purchasing services and any other governmental services which are performed on behalf of the department of education by other state agencies which receive appropriations from the state general fund to provide such services.

(f) On the effective date of this act, any unencumbered balance in the following account of the children’s initiatives fund is hereby lapsed: Pre-k pilot account (652-00-2000-2535).

Sec. 25.

STATE LIBRARY

(a) On the effective date of this act, of the \$1,381,187 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 117(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures account (434-00-1000-0300), the sum of \$87,327 is hereby lapsed.

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

Grants to libraries and library systems	
(434-00-1000-0430) .....	\$87,327

Sec. 26.

STATE HISTORICAL SOCIETY

(a) On the effective date of this act, of the \$4,075,408 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 123(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures account (288-00-1000-0083), the sum of \$866 is hereby lapsed.

(b) On the effective date of this act, of the \$250,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 201(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in rehabilitation and repair projects account (288-00-1000-8088), the sum of \$1,726 is hereby lapsed.

(c) On the effective date of this act, for the fiscal year ending June 30, 2017, the expenditure limitation established by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on expenditures for state operations from the heritage trust fund (288-00-7379-7603) of the state historical society is hereby decreased from \$78,373 to \$56,053.

Sec. 27.

KANSAS STATE UNIVERSITY

(a) On the effective date of this act, of the \$3,700,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 207(c) of chapter 104 of the 2015 Session Laws of Kansas from the Kansas educational building fund in the Seaton Hall, the college of architecture planning and design debt service account (367-00-8001-8320), the sum of \$1,900 is hereby lapsed.

## Sec. 28.

## UNIVERSITY OF KANSAS

(a) On the effective date of this act, of the \$1,629,288 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 213(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the school of pharmacy debt service account (682-00-1000-0320), the sum of \$1,552,888 is hereby lapsed.

## Sec. 29.

## DEPARTMENT OF CORRECTIONS

(a) On the effective date of this act, of the \$18,754,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 145(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the purchase of services account (521-00-1000-0300), the sum of \$6,000,000 is hereby lapsed.

(b) On the effective date of this act, of the \$21,383,874 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 145(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the prevention and graduated sanctions community grants account (521-00-1000-0221), the sum of \$1,089,245 is hereby lapsed.

(c) On the effective date of this act, of the \$500,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 221(b) of chapter 104 of the 2015 Session Laws of Kansas from the correctional institutions building fund in the debt service payment for the infrastructure projects bond issues account (521-00-8600-8170), the sum of \$66,829 is hereby lapsed.

(d) On the effective date of this act, of the amounts appropriated and reappropriated for the above agency for the fiscal year ending June 30, 2017, by sections 221(b) and 258(b) of chapter 104 of the 2015 Session Laws of Kansas from the correctional institutions building fund in the debt service payment for the prison capacity expansion projects bond issue account (521-00-8600-8160), the sum of \$212,046 is hereby lapsed.

(e) On the effective date of this act, of the \$3,996,500 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 221(c) of chapter 104 of the 2015 Session Laws of Kansas from the state institutions building fund in the debt service — Topeka complex and Larned juvenile correctional facility account (521-00-8100-8119), the sum of \$14,413 is hereby lapsed.

(f) Notwithstanding the provisions of K.S.A. 2016 Supp. 75-52,164, and amendments thereto, or any other statute, during fiscal year 2017, the director of accounts and reports shall transfer the amount certified pursuant to K.S.A. 2016 Supp. 75-52,164(b), and amendments thereto, from each account of the state general fund of a state agency that has been determined by the secretary of corrections to be actual or projected cost savings to the evidence based juvenile program account of the state



general fund of the department of corrections: *Provided*, That the secretary of corrections shall transmit a copy of each such certification to the director of legislative research.

(g) On the effective date of this act, of the \$66,945,895 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 145(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the treatment and programs account (521-00-1000-0152) of the department of corrections, the sum of \$4,335 is hereby lapsed.

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

Evidence based juvenile program (521-00-1000-0050) ..... \$6,000,000  
Sec. 30.

ADJUTANT GENERAL

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

Disaster relief (034-00-1000-0200)..... \$2,109,429

(b) On the effective date of this act, of the \$730,269 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 228(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the debt service — rehabilitation and repair of the state-wide armories account (034-00-1000-8010), the sum of \$234,962 is hereby lapsed.

(c) On the effective date of this act, of the amount reappropriated for the above agency for the fiscal year ending June 30, 2017, by section 228(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the state emergency operations center design account (034-00-1000-8025), the sum of \$429,951 is hereby lapsed.

Sec. 31.

KANSAS HIGHWAY PATROL

(a) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$65,387 from the Kansas highway patrol operations fund (280-00-2034-1100) of the Kansas highway patrol to the state highway fund (276-00-4100-0403) of the department of transportation.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2017, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

State forfeiture fund — pending..... No limit

(c) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 225(a) of chapter 104 of the 2015 Session Laws of Kansas on the rehabilitation and repair

— training center — Salina account (280-00-2306-2004) of the highway patrol is hereby increased from \$56,355 to no limit.

Sec. 32.

ATTORNEY GENERAL — KANSAS BUREAU OF INVESTIGATION

(a) On the effective date of this act, of the \$18,638,929 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 153(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures account (083-00-1000-0083), the sum of \$421,163 is hereby lapsed.

(b) On the effective date of this act, of the \$250,000 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 153(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the meth lab cleanup account (083-00-1000-0200), the sum of \$109,788 is hereby lapsed.

(c) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 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:

eCitation national priority safety program — federal fund .....	No limit
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Sec. 33.

KANSAS SENTENCING COMMISSION

(a) Notwithstanding the provisions of K.S.A. 2016 Supp. 21-6824, and amendments thereto, or any other statute, in addition to other purposes for which expenditures may be made by the Kansas sentencing commission from the substance abuse treatment programs account (626-00-1000-0600) of the state general fund for fiscal year 2017 as authorized by section 157(a) of chapter 104 of the 2015 Session Laws of Kansas, expenditures may be made by the above agency from the substance abuse treatment programs account of the state general fund for fiscal year 2017 for operating costs.

Sec. 34.

KANSAS DEPARTMENT OF AGRICULTURE

(a) On the effective date of this act, of the \$9,584,968 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 161(a) of chapter 104 of the 2015 Session Laws of Kansas from the state general fund in the operating expenditures account (046-00-1000-0053), the sum of \$11,805 is hereby lapsed.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2017, all moneys now or hereafter lawfully credited to and available in such

fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

USGS water use grant.....	No limit
Compensatory mitigation fund .....	No limit

Sec. 35.

KANSAS DEPARTMENT OF WILDLIFE,  
PARKS AND TOURISM

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

Travel and tourism operating expenditures (710-00-1900-1901) .....	\$29,787
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(b) On the effective date of this act, of the \$1,755,492 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 167(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the operating expenditures account (710-00-1900-1910), the sum of \$29,787 is hereby lapsed.

(c) On the effective date of this act, of the \$1,626,371 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 167(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the state parks operating expenditures account (710-00-1900-1920), the sum of \$500,000 is hereby lapsed.

(d) On the effective date of this act, of the \$10,603 appropriated for the above agency for the fiscal year ending June 30, 2017, by section 232(a) of chapter 104 of the 2015 Session Laws of Kansas from the state economic development initiatives fund in the debt service – Kansas City district office account (710-00-1900-1960), the sum of \$10,395 is hereby lapsed.

(e) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the wildlife fee fund (710-00-2300-2890) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$25,513,308 to \$25,476,788.

(f) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the parks fee fund (710-00-2122-2053) of the Kansas department of wildlife, parks and tourism is hereby increased from \$7,782,766 to \$8,448,214.

(g) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the boating fee fund (710-00-2245-2813) of the Kansas department of wildlife, parks and tourism is hereby decreased from \$1,324,797 to \$1,324,694.

(h) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the department access roads fund (710-00-2178-2761) of the Kansas department of wildlife, parks and tourism is hereby increased from \$1,597,880 to \$1,617,880.

(i) In addition to the other purposes for which expenditures may be made by the above agency from the wildlife fee fund for fiscal year 2017, expenditures may be made by the above agency from the following capital improvement account or accounts of the wildlife fee fund during fiscal year 2017 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Leavenworth county SFL spillway..... \$350,000

*Provided*, That all expenditures from each such capital improvement account shall be in addition to any expenditure limitations imposed on the wildlife fee fund for fiscal year 2017.

(j) In addition to the other purposes for which expenditures may be made by the above agency from the sport fish restoration fund for fiscal year 2017, expenditures may be made by the above agency from the following capital improvement account or accounts of the sport fish restoration fund during fiscal year 2017 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Leavenworth county SFL spillway..... \$1,050,000

*Provided*, That all expenditures from each such capital improvement account shall be in addition to any expenditure limitations imposed on the sport fish restoration fund for fiscal year 2017.

(k) In addition to the other purposes for which expenditures may be made by the above agency from the recreational trails program fund for fiscal year 2017, expenditures may be made by the above agency from the following capital improvement account or accounts of the recreational trails program fund during fiscal year 2017 for the following capital improvement project or projects, subject to the expenditure limitations prescribed therefor:

Flint hills nature trail..... \$1,600,000

*Provided*, That all expenditures from each such capital improvement account shall be in addition to any expenditure limitations imposed on the recreational trails program fund for fiscal year 2017.

Sec. 36.

DEPARTMENT OF TRANSPORTATION

(a) On the effective date of this act, the expenditure limitation established for the fiscal year ending June 30, 2017, by section 97(c) of chapter 12 of the 2016 Session Laws of Kansas on the agency operations account

(276-00-4100-0403) of the state highway fund is hereby decreased from \$255,917,332 to \$250,917,332.

Sec. 37. (a) On the effective date of this act, the amount authorized to be expended from each appropriation from the state general fund during the fiscal year ending June 30, 2017, for employer contributions for 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, in the aggregate, is hereby decreased by \$64,130,234.

(b) (1) On and after the date certified by the director of the budget under subsection (b)(2), and notwithstanding the provisions of K.S.A. 74-4920 and 74-4939, and amendments thereto, or any other statute, no state agency shall pay to the Kansas public employees retirement system any amounts during the remainder of the fiscal year ending June 30, 2017, that constitute the state's contribution for employer contributions for 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) During the fiscal year ending June 30, 2017, the director of the budget shall continuously monitor the status of the state general fund with regard to expenditures for any item of appropriation for employer contributions to the Kansas public employee retirement system 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. Periodically, the director of the budget shall estimate such expenditures in fiscal year 2017 and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund for such expenditures during the remainder of fiscal year 2017. Based on such expenditure estimates, the director of the budget shall determine the effective date under subsection (b)(1) necessary to provide the expenditure reduction in subsection (a) and shall certify such effective date to the board of trustees of the Kansas public employees retirement system. At the same time as the director of the budget transmits such certification to the board of trustees of the Kansas public employees retirement system, the director of the budget shall transmit a copy of such certification to the director of legislative research.

Sec. 38. (a) During fiscal year 2017, if the director of the budget certified and the director of accounts and reports transferred any amount appropriated from the following funds: expanded lottery act revenue fund, state water plan fund, economic development initiatives fund, children's initiatives fund, endowment for youth fund, educational buildings fund, state institutions building fund or the correctional institutions building fund, to the state general fund, pursuant to the authority granted in

section 98(a)(2) of chapter 12 of the 2016 Session Laws of Kansas, then on the effective date of this act, the director of accounts and reports shall lapse the same amount certified and transferred from such fund: *Provided*, That the director of the budget shall notify the director of legislative research of any such lapse.

(b) During fiscal year 2017, if the director of the budget certifies any amount appropriated from the following funds: expanded lottery act revenue fund, state water plan fund, economic development initiatives fund, children's initiatives fund, endowment for youth fund, educational buildings fund, state institutions building fund or the correctional institutions building fund, to the state general fund, pursuant to the authority granted in section 98(a)(2) of chapter 12 of the 2016 Session Laws of Kansas, then upon such certification, the director of accounts and reports shall transfer the amount certified and lapse the same amount certified and transferred from such fund: *Provided*, That the director of the budget shall notify the director of legislative research of any such lapse.

Sec. 39. (a) During the fiscal year ending June 30, 2017, in addition to the other purposes for which expenditures may be made by the secretary of corrections, from moneys appropriated from the state general fund or any special revenue fund or funds for the department of corrections for fiscal year 2017 by chapter 104 of the 2015 Session Laws of Kansas, chapters 12 and 111 of the 2016 Session Laws of Kansas, this act or any other appropriation act of the 2017 regular session of the legislature, expenditures shall be made by the secretary of corrections from the state general fund or from any special revenue fund or funds for fiscal year 2017, for the secretary, on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the following tracts of real estate located in Leavenworth county, Kansas, subject to the provisions of this section:

#### TRACT I

The Fractional East  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of Section 30, Township 9 South, Range 23 East of the 6<sup>th</sup> P.M., Leavenworth County, Kansas, LESS any part thereof taken or used for road purposes.

#### ALSO LESS

Beginning at a point in the center of the North Line of the Northeast Quarter of Section 30, Township 9 South, Range 23 East of the 6<sup>th</sup> P.M., in Leavenworth County, Kansas; thence East 447 feet; thence South 500 feet; thence West 121 feet; thence South 820 feet; thence West 325 feet; thence North 1320 feet to the place of beginning.

#### ALSO LESS

Beginning from the northeast corner of Section 30, Township 9, Range 22 East, thence due South a distance of 750 feet, thence due West a distance of 750 feet, thence North a distance of 750 feet, and thence East 750 feet to the point of beginning, said parcel of land leased to the City

of Lansing, Kansas, for park purposes pursuant to Amended Lease Agreement recorded in Book 870, Page 1295.

AND

TRACT II

Commencing at the Southwest corner of the Northeast Quarter of Section 30, Township 9 South, Range 23 East of the 6<sup>th</sup> P.M., Leavenworth County, Kansas; thence North 60 rods; thence East 80 rods; thence South 60 rods; thence West 80 rods to the place of beginning, LESS any part thereof taken or used for road purposes.

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

(c) Notwithstanding the provisions of K.S.A. 2016 Supp. 75-6609(c), and amendments thereto, or any other statute, the sale or conveyance of the real property described in subsection (a) shall not require approval of the state finance council.

(d) When the sale is made, the proceeds thereof shall be deposited in the state treasury in accordance with the provisions of K.S.A. 2016 Supp. 75-6609(f), and amendments thereto.

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

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

Sec. 40. (a) During the fiscal year ending June 30, 2017, in addition to the other purposes for which expenditures may be made by the secretary for children and families, from moneys appropriated from the state general fund or any special revenue fund or funds for the Kansas department for children and families for fiscal year 2017 by chapter 104 of the 2015 Session Laws of Kansas, chapters 12 and 111 of the 2016 Session Laws of Kansas, this act or any other appropriation act of the 2017 regular session of the legislature, expenditures shall be made by the secretary for children and families from the state general fund or from any special revenue fund or funds for fiscal year 2017, for the secretary, on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the following tracts of real estate located in Neosho county, Kansas, subject to the provisions of this section:

The South Half of the Southeast Quarter (S/2 SE/4) of Section Nineteen (19), Township Twenty-seven (27) South, Range Eighteen (18) East

of the 6<sup>th</sup> P. M., excepting therefrom five (5) tracts of land described as follows:

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

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

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

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

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

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

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

(d) Notwithstanding the provisions of K.S.A. 2016 Supp. 75-6609(c),



and amendments thereto, or any other statute, the sale or conveyance of the real property described in subsection (a) shall not require approval of the state finance council.

(e) When the sale is made, the proceeds thereof shall be deposited in the state treasury in accordance with the provisions of K.S.A. 2016 Supp. 75-6609(f), and amendments thereto.

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

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

(h) On the effective date of this act, the provisions of section 104(d) of chapter 12 of the 2016 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

Sec. 41. (a) During the fiscal year ending June 30, 2017, in addition to the other purposes for which expenditures may be made by the secretary for children and families, from moneys appropriated from the state general fund or any special revenue fund or funds for the Kansas department for children and families for fiscal year 2017 by chapter 104 of the 2015 Session Laws of Kansas, chapters 12 and 111 of the 2016 Session Laws of Kansas, this act or any other appropriation act of the 2017 regular session of the legislature, expenditures shall be made by the secretary for children and families from the state general fund or from any special revenue fund or funds for fiscal year 2017, for the secretary, on behalf of the state of Kansas, to sell and convey all of the rights, title and interest in the following tracts of real estate located in Sedgwick county, Kansas, subject to the provisions of this section:

Lot 5, except the North 2 feet, all of Lot 7, and the North 4 feet of Lot 9, Palisade Avenue, Fair Grounds addition to the City of Wichita, Sedgwick County, Kansas; commonly known as 2105 Palisade, Wichita, Kansas.

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

(c) Notwithstanding the provisions of K.S.A. 2016 Supp. 75-6609(c), and amendments thereto, or any other statute, the sale or conveyance of the real property described in subsection (a) shall not require approval of the state finance council.

(d) When the sale is made, the proceeds thereof shall be deposited

in the state treasury in accordance with the provisions of K.S.A. 2016 Supp. 75-6609(f), and amendments thereto.

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

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

Sec. 42. On the effective date of this act, the provisions of section 50 of chapter 111 of the 2016 Session Laws of Kansas are hereby declared to be null and void and shall have no force and effect.

Sec. 43. K.S.A. 2016 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in K.S.A. 74-4908(3)(a), and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in K.S.A. 74-4908(3)(a), and amendments thereto, and shall not be based on any other purpose outside of the needs of the system.

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

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

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

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

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

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

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

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

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

(ii) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas and to the participating employers under K.S.A. 74-4931, and amendments thereto, shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar years 2010 through 2012, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2013, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2015, the employer rate of contribution shall be 10.91%; (E) for the fiscal year commencing in calendar year 2016, the employer rate of contribution shall be 10.81%, *except as provided by section 37(b), and amendments thereto, for the participating employers under K.S.A. 74-4931, 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 without regard to transfers made pursuant to section 50 of chapter 111 of the 2016 Session Laws of Kansas and for participating employers under K.S.A. 74-4931, and amendments thereto, an additional percentage of compensation corresponding to the level dollar repayment amount certified by the board pursuant to subsection (17).~~ 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. 2016 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. 2016 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. 2016 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. 2016 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) *The actuarial cost of the reduction of employer contributions for eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, pursuant to the provisions of section 37, and amendments thereto, shall be amortized over 20 years as a level dollar amount, as certified by the board upon recommendation of the consulting actuary, through an additional percentage of compensation for participating employers under K.S.A. 74-4931, and amendments thereto. This additional percentage of compensation shall first be reflected in employer contribution rates for participating employers under K.S.A. 74-4931, and amendments thereto, effective on the first day of the first payroll period for the fiscal year 2018.*

Sec. 44. K.S.A. 2016 Supp. 75-2263 is hereby amended to read as follows: 75-2263. (a) ~~On and after the effective date of this act~~ *Subject to the provisions of subsection (j), the board of trustees is responsible for the management and investment of that portion of state moneys available for investment by the pooled money investment board that is certified by the state treasurer to the board of trustees as being equivalent to the aggregate net amount received for unclaimed property and shall discharge the board's duties with respect to such moneys solely in the interests of the state general fund and shall invest and reinvest such moneys and acquire, retain, manage, including the exercise of any voting rights and disposal of investments of such moneys within the limitations and according to the powers, duties and purposes as prescribed by this section.*

(b) Moneys specified in subsection (a) shall be invested and reinvested to achieve the investment objective which is preservation of such moneys and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in ~~this act~~ *section*. No such moneys shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

(c) In investing and reinvesting moneys specified in subsection (a) and in acquiring, retaining, managing and disposing of investments of the

moneys, the board of trustees shall exercise the judgment, care, skill, prudence and diligence under the circumstances then prevailing, which persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the moneys so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and not in regard to speculation but in regard to the permanent disposition of similar moneys, considering the probable income as well as the probable safety of their capital.

(d) In the discharge of such management and investment responsibilities the board of trustees may contract for the services of one or more professional investment advisors or other consultants in the management and investment of such moneys and otherwise in the performance of the duties of the board of trustees under this ~~act~~ *section*.

(e) The board of trustees shall require that each person contracted with under subsection (d) to provide services shall obtain commercial insurance which provides for errors and omissions coverage for such person in an amount to be specified by the board of trustees. The amount of such coverage specified by the board of trustees shall be at least the greater of \$500,000 or 1% of the funds entrusted to such person up to a maximum of \$10,000,000. The board of trustees shall require a person contracted with under subsection (d) to provide services to give a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the board of trustees, with corporate surety authorized to do business in this state. Such persons contracted with the board of trustees pursuant to subsection (d) and any persons contracted with such persons to perform the functions specified in subsection (b) shall be deemed to be fiduciary agents of the board of trustees in the performance of contractual obligations.

(f) (1) Subject to the objective set forth in subsection (b) and the standards set forth in subsection (c), the board of trustees shall formulate and adopt policies and objectives for the investment and reinvestment of such moneys and the acquisition, retention, management and disposition of investments of the moneys. Such policies and objectives shall be in writing and shall include:

(A) Specific asset allocation standards and objectives;

(B) establishment of criteria for evaluating the risk versus the potential return on a particular investment; and

(C) a requirement that all investment advisors, and any managers or others with similar duties and responsibilities as investment advisors, shall immediately report all instances of default on investments to the board of trustees and provide such board of trustees with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment.



(2) The board of trustees shall review such policies and objectives, make changes considered necessary or desirable and readopt such policies and objectives on an annual basis.

(g) Except as provided in subsection (d) and this subsection, the custody of such moneys shall remain in the custody of the state treasurer, except that the board of trustees may arrange for the custody of such moneys as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale. All such moneys shall be considered moneys in the state treasury for purposes of K.S.A. 75-6704, and amendments thereto.

(h) All interest or other income of the investments of the moneys invested under this section, after payment of any management fees, shall be deposited in the state treasury to the credit of the state general fund.

(i) ~~On or after the effective date of this act and periodically thereafter,~~ *Subject to the provisions of subsection (j),* the state treasurer shall certify to the board of trustees a portion of state moneys available for investment by the pooled money investment board that is equivalent to the aggregate net amount received for unclaimed property. The state treasurer shall transfer the amount certified to the board of trustees.

(j) (1) *During fiscal year 2017, the board of trustees shall liquidate all investments and reinvestments of state moneys certified by the state treasurer to the board of trustees pursuant to subsection (a).*

(2) *Upon receiving any such amounts from any such liquidation, the state treasurer shall remit the entire amount in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit any earnings from the liquidation to the state general fund and credit the principal that had been invested and reinvested to the pooled money investment portfolio.*

~~(j)~~(k) As used in this section:

(1) “Board of trustees” means the board of trustees of the Kansas public employees retirement system established by K.S.A. 74-4905, and amendments thereto.

(2) “Fiduciary” means a person who, with respect to the moneys invested under this section, is a person who:

(A) Exercises any discretionary authority with respect to administration of the moneys;

(B) exercises any authority to invest or manage such moneys or has any authority or responsibility to do so;

(C) provides investment advice for a fee or other direct or indirect compensation with respect to such moneys or has any authority or responsibility to do so;

(D) provides actuarial, accounting, auditing, consulting, legal or other professional services for a fee or other direct or indirect compensation with respect to such moneys or has any authority or responsibility to do so; or

(E) is a member of the board of trustees or of the staff of the board of trustees.

Sec. 45. K.S.A. 2016 Supp. 75-4209 is hereby amended to read as follows: 75-4209. (a) The director of investments may invest and reinvest state moneys eligible for investment which are not invested in accordance with K.S.A. 75-4237, and amendments thereto, in the following investments:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of the United States sponsored enterprises which under federal law may be accepted as security for public funds, on and after the effective date of this act moneys available for investment under this subsection shall not be invested in mortgage-backed securities of such enterprises and of the government national mortgage association, except that any such mortgage-backed securities held prior to the effective date of this act may be held to maturity;

(2) repurchase agreements with a bank or a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds;

(3) commercial paper that does not exceed 270 days to maturity and which has received one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm; and

(4) corporate bonds which have received one of the two highest ratings by a nationally recognized investment rating firm.

(b) When moneys are available for deposit or investments, the director of investments may invest in SKILL act projects and bonds pursuant to K.S.A. 74-8920, and amendments thereto, and in state agency bonds and bond projects.

(c) When moneys are available for deposits or investments, the director of investments may invest in preferred stock of Kansas venture capital, inc., under terms and conditions prescribed by K.S.A. 74-8203, and amendments thereto, but such investments shall not in the aggregate exceed a total amount of \$10,000,000.

(d) When moneys are available for deposits or investments, the director of investments may invest in loans pursuant to legislative mandates, except that not more than the greater of 10% or \$140,000,000 of the state

moneys shall be invested. *The provisions of this subsection shall not apply to the provisions of subsection (m).*

(e) Interest on investment accounts in banks is to be paid at maturity, but not less than annually.

(f) Investments made by the director of investments under the provisions of this section shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(g) Investments under subsection (a) or (b) or under K.S.A. 75-4237, and amendments thereto, shall be for a period not to exceed four years, except that linked deposits authorized under the provisions of K.S.A. 2-3703 through 2-3707, and amendments thereto, shall not exceed a period of 10 years; agricultural production loan deposits authorized under the provisions of K.S.A. 2016 Supp. 75-4268 through 75-4274, and amendments thereto, shall not exceed a period of eight years and housing loan deposits authorized under K.S.A. 2016 Supp. 75-4276 through 75-4282, and amendments thereto, shall not exceed a period of five years or 20 years, as applicable pursuant to K.S.A. 2016 Supp. 75-4279, and amendments thereto.

(h) Investments in securities under ~~paragraph (1)~~ of subsection (a)(1) shall be limited to securities which do not have any more interest rate risk than do direct United States government obligations of similar maturities. For purposes of this subsection, "interest rate risk" means market value changes due to changes in current interest rates.

(i) The director of investments shall not invest state moneys eligible for investment under subsection (a), in the municipal investment pool fund, created under K.S.A. 12-1677a, and amendments thereto.

(j) The director of investments shall not invest moneys in the pooled money investment portfolio in derivatives. As used in this subsection, "derivatives" means a financial contract whose value depends on the value of an underlying asset or index of asset values.

(k) Moneys and investments in the pooled money investment portfolio shall be invested and reinvested by the director of investments in accordance with investment policies developed, approved, published and updated on an annual basis by the board. Such investment policies shall include at a minimum guidelines which identify credit standards, eligible instruments, allowable maturity ranges, methods for valuing the portfolio, calculating earnings and yields and limits on portfolio concentration for each type of investment. Any changes in such investment policies shall be approved by the pooled money investment board. Such investment policies may specify the contents of reports, methods of crediting funds and accounts and other operating procedures.

(l) The board shall adopt rules and regulations to establish an overall

percentage limitation on the investment of moneys in investments authorized under ~~paragraph (3) of subsection (a)(3)~~, and within such authorized investment, the board shall establish a percentage limitation on the investment in any single business entity.

(m) (1) *During the fiscal year ending June 30, 2017, the director of the budget shall estimate on or before June 27, 2017, the amount of the unencumbered ending balance in the state general fund for fiscal year 2017. If the amount of such unencumbered ending balance in the state general fund is less than \$50,000,000, the director of the budget shall certify the difference between \$50,000,000, and the amount of such unencumbered ending balance to the pooled money investment board. Upon the liquidation of all investments and reinvestments of state moneys pursuant to K.S.A. 2016 Supp. 75-2263(j), and amendments thereto, and upon receipt of such certification by the director of the budget, during the fiscal year ending June 30, 2017, the pooled money investment board shall authorize the director of accounts and reports to transfer an amount equal to the amount certified by the director of the budget pursuant to this subsection from the pooled money investment portfolio to the state general fund. Upon receipt of such authorization, the director of accounts and reports shall make such transfer. The chairperson of the pooled money investment board shall transmit a copy of such authorization to the director of legislative research and the director of the budget.*

(2) *On or before June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024, the director of accounts and reports shall transfer an amount equal to  $\frac{1}{6}$  of the amount transferred pursuant to subsection (m)(1) from the state general fund to the pooled money investment portfolio.*

(3) *During the fiscal year ending June 30, 2018, after any transfer made pursuant to subsection (m)(1), the pooled money investment board shall authorize the director of accounts and reports to transfer the remaining amount of all investments and reinvestments of state moneys liquidated pursuant to K.S.A. 2016 Supp. 75-2263(j), and amendments thereto, from the pooled money investment portfolio to the state general fund. Upon receipt of such authorization, the director of accounts and reports shall make such transfer. The chairperson of the pooled money investment board shall transmit a copy of such authorization to the director of legislative research and the director of the budget.*

(4) *On or before June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, June 30, 2023, and June 30, 2024, the director of accounts and reports shall transfer an amount equal to  $\frac{1}{6}$  of the amount transferred pursuant to subsection (m)(3) from the state general fund to the pooled money investment portfolio.*

Sec. 46. K.S.A. 2016 Supp. 75-2319 is hereby amended to read as follows: 75-2319. (a) There is hereby established in the state treasury the

school district capital improvements fund. The fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) In each school year, each school district which is obligated to make payments from its capital improvements fund shall be entitled to receive payment from the school district capital improvements fund in an amount determined by the state board of education as provided in this subsection.

(1) For general obligation bonds approved for issuance at an election held prior to July 1, 2015, the state board of education shall:

(A) Determine the amount of the assessed valuation per pupil (AVPP) of each school district in the state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this subsection (b)(1);

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

(C) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;

(D) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval below the amount of the median AVPP. Except as provided by K.S.A. 2016 Supp. 75-2319c, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district. The state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;

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

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

(2) For general obligation bonds approved for issuance at an election held on or after July 1, 2015, the state board of education shall:

(A) Determine the amount of the AVPP of each school district in the

state and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this subsection (b)(2);

(B) prepare a schedule of dollar amounts using the amount of the AVPP of the school district with the lowest AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts;

(C) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the lowest AVPP shown on the schedule and decreasing the state aid computation percentage assigned to the amount of the lowest AVPP by one percentage point for each \$1,000 interval above the amount of the lowest AVPP. Except as provided by K.S.A. 2016 Supp. 75-2319c, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district. The state aid computation percentage is 75%;

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

(E) multiply the amount determined under subsection (b)(2)(D) by the applicable state aid percentage factor.

(3) For general obligation bonds approved for issuance at an election held on or before June 30, 2016, the sum of the amount determined under subsection (b)(1)(F) and the amount determined under subsection (b)(2)(E) is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.

(4) For general obligation bonds approved for issuance at an election held on or after July 1, 2016, the amount determined under subsection (b)(2)(E) is the amount of payment the school district shall receive from the school district capital improvements fund in the school year, except the total amount of payments school districts receive from the school district capital improvements fund in the school year for such bonds shall not exceed the six-year average amount of capital improvement state aid as determined by the state board of education.

(A) The state board of education shall determine the six-year average amount of capital improvement state aid by calculating the average of the total amount of moneys expended per year from the school district capital improvements fund in the immediately preceding six fiscal years, not to include the current fiscal year.

(B) (i) Subject to clause (ii), the state board of education shall prioritize the allocations to school districts from the school district capital

improvements fund in accordance with the priorities set forth as follows in order of highest priority to lowest priority:

(a) Safety of the current facility and disability access to such facility as demonstrated by a state fire marshal report, an inspection under the Americans with disabilities act, 42 U.S.C. § 12101 et seq., or other similar evaluation;

(b) enrollment growth and imminent overcrowding as demonstrated by successive increases in enrollment of the school district in the immediately preceding three school years;

(c) impact on the delivery of educational services as demonstrated by restrictive inflexible design or limitations on installation of technology; and

(d) energy usage and other operational inefficiencies as demonstrated by a district-wide energy usage analysis, district-wide architectural analysis or other similar evaluation.

(ii) In allocating capital improvement state aid, the state board shall give higher priority to those school districts with a lower AVPP compared to the other school districts that are to receive capital improvement state aid under this section.

(C) On and after July 1, 2016, the state board of education shall approve the amount of state aid payments a school district shall receive from the school district capital improvements fund pursuant to subsection (b)(5) prior to an election to approve the issuance of general obligation bonds.

(5) The sum of the amounts determined under subsection (b)(3) and the amount determined or allocated to the district by the state board of education pursuant to subsection (b)(4), is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.

(c) The state board of education shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital improvements fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal years ending ~~June 30, 2013~~, June 30, ~~2014~~ 2017, June 30, ~~2015~~ 2018, and June 30, ~~2016~~ 2019, shall be considered to be revenue transfers from the state general fund.

(d) Payments from the school district capital improvements fund shall be distributed to school districts at times determined by the state board of education to be necessary to assist school districts in making scheduled payments pursuant to contractual bond obligations. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the di-

rector of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the bond and interest fund of the school district to be used for the purposes of such fund.

(e) The provisions of this section apply only to contractual obligations incurred by school districts pursuant to general obligation bonds issued upon approval of a majority of the qualified electors of the school district voting at an election upon the question of the issuance of such bonds.

(f) On or before the first day of the legislative session in 2017, and each year thereafter, the state board of education shall prepare and submit a report to the legislature that includes information on school district elections held on or after July 1, 2016, to approve the issuance of general obligation bonds and the amount of payments school districts were approved to receive from the school district capital improvements fund pursuant to subsection (b)(4)(C).

Sec. 47. K.S.A. 2016 Supp. 75-6706 is hereby amended to read as follows: 75-6706. (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 chapter 12 of the 2016 Session Laws of Kansas, 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.~~

*(e) On or before August 15, 2019, the director of the budget, in consultation with the director of legislative research, shall certify the amount of the unencumbered ending balance in the state general fund for fiscal year 2019. Upon making such certification, the director of the budget shall authorize the director of accounts and reports to transfer 10% of such ending balance from the state general fund to the budget stabilization fund.*

Sec. 48. K.S.A. 2016 Supp. 74-4920, 75-2263, 75-2319, 75-2319d, 75-4209 and 75-6706 are hereby repealed.

Sec. 49. If any fund or account name described by words and the numerical accounting code that follows such fund or account name do not match, it shall be conclusively presumed that the legislature intended that the fund or account name described by words is the correct fund or account name, and such fund or account name described by words shall control over a contradictory or incorrect numerical accounting code.

Sec. 50. *Severability.* If any provision or clause of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 51. *Appeals to exceed expenditure limitations.* (a) Upon written application to the governor and approval of the state finance council, expenditures from special revenue funds may exceed the amounts specified in this act.

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

Sec. 52. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 18, 2017.

Published in the *Kansas Register* April 27, 2017.

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## CHAPTER 55

### SENATE BILL No. 46

AN ACT concerning water; relating to water conservation areas; relating to the diversion of water; chief engineer; remedies for the impairment of a valid water right or permit to divert and use water; amending K.S.A. 82a-716 and 82a-717a and K.S.A. 2016 Supp. 82a-745 and 82a-1906 and repealing the existing sections.

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

Section 1. K.S.A. 82a-716 is hereby amended to read as follows: 82a-716. If any appropriation, or the construction and operation of authorized diversion works results in an injury to any common-law claimant, such person shall be entitled to due compensation in a suitable action at law against the appropriator for damages proved for any property taken. Any person with a valid water right or permit to divert and use water may, *after first exhausting the remedies available under K.S.A. 82a-717a, and amendments thereto*, restrain or enjoin in any court of competent jurisdiction a subsequent diversion by a common-law claimant without vested rights without first condemning those common-law rights. *After first exhausting the remedies available under K.S.A. 82a-717a, and amendments thereto*, an appropriator shall have the right to injunctive relief to protect his or her prior right of beneficial use as against use by an appropriator with a later priority of right.

Sec. 2. K.S.A. 82a-717a is hereby amended to read as follows: 82a-717a. (a) No common-law claimant without a vested right, or other person without a vested right, a prior appropriation right, or an earlier permit shall divert or threaten to divert water if such diversion or threatened diversion impairs or would impair any vested right, appropriation right, or right under a permit to appropriate water. But any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier permit may divert water in accordance with any such right or permit although such diversion or use thereunder conflicts with the diversion, use, proposed diversion, or proposed use made or proposed by a common-law claimant who does not have a vested right, or other person who does not have a vested right, a prior appropriation right or an earlier permit.

(b) (1) ~~Moreover,~~ Any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier

permit may ~~restrain or enjoin in any court of competent jurisdiction, in accordance with this subsection, obtain an order from the chief engineer that limits, curtails or prevents~~ any diversion or proposed diversion that impairs or would impair such right in the event that any such diversion or proposed diversion is made or is threatened to be made by any common-law claimant, or other person who does not have a vested right, a prior appropriation right, or an earlier permit.

(2) *Any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier permit who claims impairment of such right by any other person without a prior right to the same water shall submit a complaint to the chief engineer in accordance with rules and regulations of the chief engineer.*

(A) *Within two weeks of receiving a complaint of impairment, the chief engineer shall initiate an investigation of such complaint and provide notice of such investigation to the complainant and the allegedly impairing party or parties. As part of the investigation, the chief engineer shall provide an opportunity for the parties to submit any relevant information, including submission of an engineering study that meets standards designated by the chief engineer through rules and regulations.*

(B) *Following the investigation, the chief engineer may issue an order, consistent with K.S.A. 82a-706b, and amendments thereto, and rules and regulations of the chief engineer, that limits, curtails or prevents the diversion and use of water by any person without a prior right to the same water or that otherwise disposes of the complaint.*

(C) *The chief engineer shall complete any investigation initiated pursuant to this subsection within 12 months of the date the complaint was submitted to the chief engineer, provided that the chief engineer may extend the investigation for good cause by notifying the parties in writing of the amount of time needed to complete the investigation.*

(3) *Concurrent with submission of a complaint under paragraph (2), or during the pendency of the chief engineer's investigation pursuant to the complaint, the complainant may petition the chief engineer to issue a temporary order, to be effective until a final order is issued under paragraph (2)(B), that limits, curtails or prevents the diversion and use of water by any person without a prior right to the same water upon a finding by the chief engineer that a substantial likelihood exists that impairment is occurring or will occur and that an order limiting, curtailing or preventing diversion and use of water by any person without a prior right to the same water would not be adverse to the public interest.*

(4) *Any order issued by the chief engineer pursuant to this subsection is subject to review in accordance with the Kansas judicial review act.*

Sec. 3. K.S.A. 2016 Supp. 82a-1906 is hereby amended to read as follows: 82a-1906. (a) The division of water resources of the Kansas department of agriculture shall post all complete applications and all orders

issued by the division pursuant to K.S.A. 82a-706b, 82a-708a and 82a-708b, and amendments thereto, *and K.S.A. 2016 Supp. 82a-745, and amendments thereto*, on its official website.

(b) The division, in conjunction with the groundwater management district within which such water right is situated, shall notify all water right owners with a point of diversion within half a mile, or further if deemed necessary by a rule and regulation of the chief engineer, of a water right pending request or application pursuant to K.S.A. 82a-706b, 82a-708a and 82a-708b, and amendments thereto, *and K.S.A. 2016 Supp. 82a-745, and amendments thereto*, except for change applications requesting a point of diversion move 300 feet or less from the currently authorized location.

Sec. 4. K.S.A. 2016 Supp. 82a-745 is hereby amended to read as follows: 82a-745. (a) Any water right owner or a group of water right owners in a designated area may enter into a consent agreement and order with the chief engineer to establish a water conservation area. The water right owner or group of water right owners shall submit a management plan to the chief engineer. Such management plan shall be the basis of the consent agreement and order designating a water conservation area and shall:

- (1) Include clear geographic boundaries;
- (2) include the written consent of all participating water right owners within the geographic boundaries described in paragraph (1) to enter into the consent agreement and order;
- (3) include a finding or findings that one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist, *or include a finding or findings that the area within the geographic boundaries described in paragraph (1) has been closed to new appropriations by rule, regulation or order of the chief engineer*;
- (4) include provisions regarding the proposed duration of the water conservation area and any process by which water right owners may request to be added or removed from the water conservation area;
- (5) include goals and *one or more of the* corrective control provisions ~~to address one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto~~ *provided in subsection (b)*;
- (6) give due consideration to water users who have previously implemented reductions in water use resulting in voluntary conservation measures;
- (7) include compliance monitoring and enforcement; and
- (8) be consistent with state law.

(b) A consent agreement and order of designation of a water conservation area pursuant to this section shall define the boundaries of the water conservation area and may include any of the following corrective control provisions:

(1) Closing the water conservation area to any further appropriation of groundwater. In which event, the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area;

(2) determining the permissible total withdrawal of groundwater in the water conservation area each day, month or year, and apportioning such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights;

(3) reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the water conservation area;

(4) requiring and specifying a system of rotation of groundwater use in the water conservation area; and

(5) any other provisions necessary to effectuate agreed-upon water conservation goals consistent with the public interest.

The chief engineer shall be responsible for the monitoring and enforcement of any corrective control provisions ordered for a water conservation area.

(c) The order of designation shall be in full force and effect from the date of its entry in the records of the chief engineer's office. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order and shall file a copy of the same with the register of deeds of any county within which any part of the water conservation area lies.

(d) If any corrective control provisions of a water conservation area conflict with rules and regulations of a groundwater management district or requirements of a local enhanced management plan or intensive groundwater use control area that result in greater overall conservation of water resources within which a participating water right is situated, the chief engineer is authorized to amend the provisions of the water conservation area to conform to any rules and regulations or requirements that result in greater conservation of water resources, as determined by the chief engineer.

(e) *To provide flexibility in the management of water resources, as part of the consent agreement and order of designation, the chief engineer may authorize ~~single year or multi-year term permits for water right owners to effectuate the water conservation area's conservation goals in accordance with the~~ a management plan that allots water authorized by existing water rights, subject to the following limitations:*

(1) *The management plan shall be limited to the term of the water conservation area;*

(2) *the management plan may allow, in any given calendar year, the water use of an individual water right or rights to exceed the annual authorized quantity of the individual water right or rights participating in the management plan, provided that the water use shall not exceed the*

*total annual authorized aggregate quantity and rate of all the water rights participating in the management plan in any given calendar year;*

*(3) the authority granted through the management plan shall supersede the participating water rights during the term of the water conservation area or until the management plan is suspended by the chief engineer in accordance with this subsection; and*

*(4) for purposes of determining priority, the management plan shall be assigned the priority date of its effectuation.*

*(f) In addition to a management plan under subsection (e), as a part of the consent agreement and order of designation, the chief engineer may include the use of multi-year flex accounts as authorized by K.S.A. 2016 Supp. 82a-736, and amendments thereto.*

*(g) No management plan authorized under a water conservation area shall be allowed to impair any water right. At any time during the term of a water conservation area, if the chief engineer determines that impairment may be occurring, following a complaint and preliminary investigation into relevant physical facts, the chief engineer may suspend operation of the water conservation area. In the event of such suspension, each participating water right may be operated in accordance with its permitted terms and conditions as in effect prior to operation of the water conservation area. Upon conclusion of an investigation by the chief engineer and a finding of impairment, the chief engineer may terminate the water conservation area, or may modify the water conservation area subject to consent of the participating water right owners, to alleviate any impairment.*

~~(e)~~*(h) Prior to execution of a proposed water conservation area consent agreement and order of designation pursuant to this section, the chief engineer shall notify in writing the groundwater management district within which any participating water right is situated. Such groundwater management district shall be given an opportunity to provide a written recommendation regarding the proposed water conservation area and management plan within 45 days of notification by the chief engineer. The review period may be extended by up to 30 days upon approval by the chief engineer. Subject to subsection (d), any participating water right in a water conservation area shall continue to be subject to all applicable rules and regulations and management plans of the groundwater management district in which the water right is situated.*

*(i) The chief engineer shall provide notification, as specified in K.S.A. 2016 Supp. 82a-1906, and amendments thereto, to all water right owners with a point of diversion within 1/2 a mile, or farther if deemed necessary by a rule and regulation of the chief engineer, of the boundaries of a water conservation area. Notification shall include a reference to an electronic publication of the management plan and any relevant technical analysis.*

~~(f)~~*(j) The consent agreement and order of designation shall provide for periodic review of the consent agreement and order, which may be*

initiated by the chief engineer or upon request of the water right owners in the water conservation area. The consent agreement and order shall specify the frequency of such periodic review, but a review shall be conducted at least once every 10 years.

~~(g)~~(k) (1) The chief engineer may, with the consent of all participating water right owners, amend a consent agreement and order of designation in order to:

(A) Modify corrective control provisions or the boundaries of the designated area;

(B) add or remove water rights upon request of such water right owners;

(C) terminate a water conservation area upon the request of the water right owners in the designated area; or

(D) make other changes the water right owners may request.

(2) Any amendments to a consent agreement and order of designation, except amendments that remove a water right upon request of the owner so long as the consent of all participating water right owners is not required pursuant to the management plan, shall be consented to by all participating water right owners within the designated area and the chief engineer and shall be based upon a revised management plan submitted by the participating water right owners.

(l) *No water right shall be perfected pursuant to a water conservation area.*

~~(h)~~(m) *Notwithstanding K.S.A. 82a-1039, and amendments thereto, nothing in this section shall be construed as limiting or affecting any duty or power of a groundwater management district granted to such district by the Kansas groundwater management district act.*

(n) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

~~(i)~~(o) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 5. K.S.A. 82a-716 and 82a-717a and K.S.A. 2016 Supp. 82a-745 and 82a-1906 are hereby repealed.

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

Approved April 18, 2017.

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## CHAPTER 56

House Substitute for SENATE BILL No. 13  
(Amended by Chapter 85)

AN ACT relating to the sale and consumption of alcoholic beverages; amending K.S.A. 41-2706 and 41-2726 and K.S.A. 2016 Supp. 41-102, 41-307, 41-308, 41-2701, 41-2702, 41-2704, 41-2708 and 41-2722 and repealing the existing sections; also repealing K.S.A. 41-103.

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

New Section 1. (a) Notwithstanding the provisions of K.S.A. 41-1101, and amendments thereto, or the provisions of the Kansas cereal malt beverage act, a distributor may establish reasonable minimum order quantities or minimum dollar value of an order, or both, for alcoholic liquor and cereal malt beverages distributed by the distributor to a retailer.

(b) The provisions of K.S.A. 41-1101(b), and amendments thereto, shall apply to a person licensed pursuant to K.S.A. 41-2702, and amendments thereto, to sell cereal malt beverage and beer containing not more than 6% alcohol by volume to the same extent it applies to a retailer licensed pursuant to the Kansas liquor control act, and the provisions of K.S.A. 41-1101(d), and amendments thereto, shall apply to a retailer licensed pursuant to the Kansas liquor control act to the same extent it applies to a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas liquor control act.

(d) The provisions of this section shall be effective on and after April 1, 2019.

New Sec. 2. (a) It is hereby declared to be the intent of the legislature that, for the purposes of any agreement entered into prior to April 1, 2019, pursuant to K.S.A. 41-410, and amendments thereto, between a supplier and a distributor regarding the geographic territory within which the distributor may sell one or more brands of the supplier's cereal malt beverage or beer, or both, the term "cereal malt beverage" shall have the meaning ascribed to such term in K.S.A. 41-2701, and amendments thereto, on the effective date of this act, and the term "beer" shall have the meaning ascribed to such term in K.S.A. 41-102, and amendments thereto, on the effective date of this act.

(b) This section shall be a part of and supplemental to the Kansas liquor control act.

(c) The provisions of this section shall be effective on and after April 1, 2019.

New Sec. 3. (a) Following the 10<sup>th</sup> anniversary of the effective date of this act, the director shall conduct a market impact study of the sale of beer containing not more than 6% alcohol by volume by persons li-



censed as cereal malt beverage retailers pursuant to K.S.A. 41-2702, and amendments thereto. Such study shall include, but not be limited to, the changes subsequent to the effective date of this act, if any, in the number of retailers and the reasons for any changes; the changes subsequent to the effective date of this act, if any, in the number of persons licensed to sell cereal malt beverage in the original package for use or consumption off of and away from the licensed premises, and the reasons for any changes; the effect of this act on state and local tax revenues; the impact of this act on employment; and such other factors as the director deems pertinent. A report on the director's findings from such study shall be submitted to the legislature prior to adjournment of the 2029 session of the legislature.

(b) The director shall have oversight over the sale of beer containing not more than 6% alcohol by volume by persons licensed as cereal malt beverage retailers pursuant to K.S.A. 41-2702, and amendments thereto, to ensure that such sales promote an orderly market. For such purpose, the director may adopt such rules and regulations as the director deems necessary and appropriate, including rules and regulations making applicable to cereal malt beverage retailers selling beer containing not more than 6% alcohol by volume such provisions of the existing rules and regulations concerning industry trade practices as are necessary and appropriate. The rules and regulations authorized by this section shall be promulgated by the director on or before July 1, 2018.

Sec. 4. On and after April 1, 2019, K.S.A. 2016 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(d) "Caterer" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(f) “Club” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(g) “Director” means the director of alcoholic beverage control of the department of revenue.

(h) “Distributor” means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702, and amendments thereto.

(i) “Domestic beer” means beer which contains not more than 10% alcohol by weight and which is manufactured in this state.

(j) “Domestic fortified wine” means wine which contains more than 14%, but not more than 20% alcohol by volume and which is manufactured in this state.

(k) “Domestic table wine” means wine which contains not more than 14% alcohol by volume and which is manufactured without rectification or fortification in this state.

(l) “Drinking establishment” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(m) “Farm winery” means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

(n) “Hard cider” means any alcoholic beverage that:

(1) Contains less than 8.5% alcohol by volume;

(2) has a carbonation level that does not exceed 6.4 grams per liter; and

(3) is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

(o) “Manufacture” means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.

(p) (1) “Manufacturer” means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

(2) “Manufacturer” does not include a microbrewery, microdistillery or a farm winery.

(q) “Microbrewery” means a brewery licensed by the director to manufacture, store and sell domestic beer and hard cider.

(r) “Microdistillery” means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

(s) “Minor” means any person under 21 years of age.

(t) “Nonbeverage user” means any manufacturer of any of the products set forth and described in K.S.A. 41-501, and amendments thereto,

when the products contain alcohol or wine, and all laboratories using alcohol for nonbeverage purposes.

(u) “Original package” means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

(v) “Person” means any natural person, corporation, partnership, trust or association.

(w) “Powdered alcohol” means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a non-alcoholic liquid.

(x) “Primary American source of supply” means the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product or the manufacturer’s or owner’s exclusive agent who, if the alcoholic liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

(y) (1) “Retailer” means a person who *is licensed under the Kansas liquor control act* and sells at retail, or offers for sale at retail, alcoholic liquors or cereal malt beverages.

(2) “Retailer” does not include a microbrewery, microdistillery or a farm winery.

(z) “Sale” means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

(aa) “Salesperson” means any natural person who:

(1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor or cereal malt beverage; or

(2) is engaged in promoting the sale of alcoholic liquor or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas.

(bb) “Secretary” means the secretary of revenue.

(cc) (1) “Sell at retail” and “sale at retail” refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.

(2) “Sell at retail” and “sale at retail” do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed

drinking establishment, a licensed caterer or a holder of a temporary permit.

(dd) “To sell” includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

(ee) “Sleeve” means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

(ff) “Spirits” means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(gg) “Supplier” means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

(hh) “Temporary permit” has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(ii) “Wine” means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. The term “wine” shall include hard cider and any other product that is commonly known as a subset of wine.

Sec. 5. On and after April 1, 2019, K.S.A. 2016 Supp. 41-307 is hereby amended to read as follows: 41-307. A beer distributor’s license shall allow:

- (a) The wholesale purchase, importation and storage of beer.
- (b) The sale of beer to:
  - (1) Licensed caterers;
  - (2) beer distributors licensed in this state;
  - (3) retailers, public venues, clubs and drinking establishments, licensed in this state, except that such distributor shall sell a brand of beer only to those retailers, public venues, clubs and drinking establishments of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto; and
  - (4) such persons located outside such territory or outside this state as permitted by law.
- (c) The sale of cereal malt beverage to:
  - (1) Beer distributors licensed in this state;
  - (2) clubs and drinking establishments, licensed in this state, and retailers licensed under K.S.A. 41-2702, and amendments thereto, except that such distributor shall sell a brand of cereal malt beverage only to those such clubs, drinking establishments and retailers of which the licensed premises are located in the geographic territory within which such

distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto;~~and~~

(3) *retailers; and*

(4) such persons located outside such territory or outside this state as permitted by law.

(d) *The sale of beer containing not more than 6% alcohol by volume to cereal malt beverage retailers licensed pursuant to K.S.A. 41-2702, and amendments thereto.*

(e) The purchase of cereal malt beverage in kegs or other bulk containers and the bottling or canning thereof in accordance with law.

~~(e)~~(f) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

~~(f)~~(g) The storage and delivery, with proper invoicing in accordance with rules and regulations adopted by the secretary, on the premises of a public venue licensee, of beer sold to or available for purchase by the public venue during an event.

~~(g)~~(h) The withdrawal of beer or cereal malt beverage from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees, or to persons licensed under the club and drinking establishment act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Samples may be served on the premises of a licensee holding a license issued under the club and drinking establishment act, provided no sample shall be served on that portion of the premises that is open to the public and where sales of alcoholic liquor are made. No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of beer or cereal malt beverage shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of providing samples pursuant to this subsection other than at industry seminars or to the licensee's employees, the term "sample" shall have the same meaning as that term is defined in K.S.A. 41-2601, and amendments thereto.

Sec. 6. On and after April 1, 2019, K.S.A. 2016 Supp. 41-308 is hereby amended to read as follows: 41-308. (a) Except as provided in K.S.A. 2016 Supp. 41-308d, and amendments thereto, a retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor *and cereal malt beverage* for use or consumption off and away from the premises specified in such license.

(b) A retailer's license shall permit sale and delivery of alcoholic liquor *and cereal malt beverage* only on the licensed premises and shall not permit sale of alcoholic liquor *and cereal malt beverage* for resale in any form, except that a licensed retailer may:

(1) Sell alcoholic liquor *and cereal malt beverage* to a temporary permit holder for resale by such permit holder; and

(2) sell and deliver alcoholic liquor *and cereal malt beverage* to a caterer or to the licensed premises of a public venue, club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such public venue, club, establishment or caterer.

~~(b) The holder of a retailer's license shall not sell, offer for sale, give away or permit to be sold, offered for sale or given away in or from the premises specified in such license any service or thing of value whatsoever except alcoholic liquor in the original package, except that a licensed~~

(c) A retailer may:

(1) Charge a delivery fee for delivery of *alcoholic liquor and cereal malt beverage* to a public venue, club, drinking establishment or caterer pursuant to subsection ~~(a)~~ (b);

(2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the retailer is selected as a lottery retailer;

(3) include in the sale of alcoholic liquor *and cereal malt beverage* any goods included by the manufacturer in packaging with the alcoholic liquor *or cereal malt beverage*, subject to the approval of the director; ~~and~~

(4) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor *or cereal malt beverage*;

~~(c) No licensed retailer shall furnish any entertainment in such premises or permit any pinball machine or game of skill or chance to be located in or on such premises.~~

~~(d) A retailer's license shall allow the licensee to~~ (5) store alcoholic liquor *and cereal malt beverage* in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor *and cereal malt beverage* to consumers in a chilled condition; *and*

(6) *sell any other good or service on the licensed premises, except that*

*the gross sales of other goods and services, excluding fees derived from the sale of lottery tickets and revenues from sales of cigarettes and tobacco products, shall not exceed 20% of the retailer's total gross sales.*

Sec. 7. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2701 is hereby amended to read as follows: 41-2701. As used in this act unless the context otherwise requires:

(a) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, as defined in K.S.A. 2016 Supp. 41-2729, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight.

(b) "Director" means the director of alcoholic beverage control of the department of revenue.

(c) "Manufacturer" means a manufacturer as defined by K.S.A. 41-102, and amendments thereto.

(d) "Person" means any individual, firm, partnership, corporation or association.

(e) "Retailer" means any person *who is licensed under the Kansas cereal malt beverage act and who sells or offers for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume* for use or consumption and not for resale in any form.

(f) "Place of business" means any place at which cereal malt beverages *or beer containing not more than 6% alcohol by volume* are sold.

(g) "Distributor" means a beer distributor licensed pursuant to the Kansas liquor control act.

(h) "Legal age for consumption of cereal malt beverage" means 21 years of age, except that "legal age for consumption of cereal malt beverage" shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

Sec. 8. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2702 is hereby amended to read as follows: 41-2702. (a) No retailer shall sell any cereal malt beverage *or beer containing not more than 6% alcohol by volume* without having first secured a license for each place of business as herein provided. In case such place of business is located within the corporate limits of a city, the application for license shall be made to the governing body of such city. In all other cases, the application for license shall be made to the board of county commissioners in the county in which such place of business is to be located, except that the application for license to sell on railway cars shall be made to the director as hereinafter provided.

(b) A board of county commissioners shall not issue or renew a retailer's license without giving the clerk of the township where the place

of business is to be located written notice by registered mail of the filing of the application for licensure or renewal. The township board may within 10 days file advisory recommendations as to the granting of such license or renewal and such advisory recommendations shall be considered by the board of county commissioners before such license is issued. If an original license is granted and issued, the board of county commissioners shall grant and issue renewals thereof upon application of the license holder, if the license holder is qualified to receive the same and the license has not been revoked as provided by law.

(c) An application for a retailer's license shall be verified and upon a form prepared by the attorney general of the state and shall contain:

- (1) The name and residence of the applicant;
- (2) the length of time that the applicant has resided within the state of Kansas;
- (3) the particular place of business for which a license is desired;
- (4) the name of the owner of the premises upon which the place of business is located; and

(5) a statement that the applicant is a citizen of the United States and not less than 21 years of age and that the applicant has not within two years immediately preceding the date of making application been convicted of a felony, any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

(d) In addition to the fee provided by subsection (e), each application for a retailer's license to sell cereal malt beverages for consumption on the licensed premises shall be accompanied by a fee as follows:

(1) For licensure of a place of business other than a railway car, a fee of not less than \$25 nor more than \$200, as prescribed by the board of county commissioners or the governing body of the city, as the case may be; and

(2) for licensure to sell on railway cars, a fee of \$100.

(e) Each applicant for a retailer's license or renewal of such a license shall submit to the director a copy of the completed application for such license or license renewal, together with a fee of \$25. Upon receipt of such application, the director shall authorize a state stamp to be affixed to the license. No such stamp shall be affixed to any license except such stamps as provided by the director and no retailer's license shall be issued or renewed unless such stamp has first been affixed thereto.

(f) The director shall remit all fees collected by the director 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, except that the director may provide for the



deposit in the cereal malt beverage tax refund fund of such amounts as necessary for the refund of any license fees collected hereunder.

(g) The board of county commissioners of the several counties or the governing body of a city shall issue a license upon application duly made as otherwise provided for herein, to any retailer engaged in business in such county or city and qualified to receive such license, to sell only cereal malt beverages in original and unopened containers, and not for consumption on the premises. The annual license fee for such license, which shall be in addition to the fee provided by subsection (e), shall be not less than \$25 nor more than \$50.

(h) No license issued under this act shall be transferable.

Sec. 9. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of the cereal malt beverage act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Within any city where the days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, and within any township where the hours and days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, no cereal malt beverages or beer containing not more than 6% alcohol by volume may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) Within any city where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, and have not been subsequently restricted as provided in K.S.A. 2016 Supp. 41-2911, and amendments thereto, and within any township where the days of sale at retail of cereal malt beverage in the original package have been expanded

as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, and have not been subsequently restricted as provided by K.S.A. 2016 Supp. 41-2911, and amendments thereto, no person shall sell at retail cereal malt beverage:

- (1) Between the hours of 12 midnight and 6 a.m.;
- (2) in the original package before 12 noon *or* after 8 p.m. on Sunday;
- (3) on Easter Sunday; or
- (4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

(e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(f) Except as otherwise provided by this subsection, no licensee shall permit a person under the legal age for consumption of cereal malt beverage *or beer containing not more than 6% alcohol by volume* to consume or purchase any cereal malt beverage in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage *or beer containing not more than 6% alcohol by volume*, if:

(1) The licensee's place of business is licensed only to sell at retail cereal malt beverage *or beer containing not more than 6% alcohol by volume* in the original package and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(g) No person shall have any alcoholic liquor, *except beer containing not more than 6% alcohol by volume*, in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(h) Cereal malt beverages may be sold on premises which are licensed

pursuant to both the *Kansas* cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 10. On and after April 1, 2019, K.S.A. 41-2706 is hereby amended to read as follows: 41-2706. (a) Except as provided by subsection (b), no person shall sell or furnish cereal malt beverages *or beer containing not more than 6% alcohol by volume* at retail to any person on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. If any person extends credit for such purpose, the debt attempted to be created shall not be recoverable at law and, in addition, such person shall be subject to the penalties provided in K.S.A. 41-2707, and amendments thereto.

(b) A licensed retailer may sell cereal malt beverages *or beer containing not more than 6% alcohol by volume* to a consumer on credit pursuant to a credit card which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the credit card.

Sec. 11. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, may revoke or suspend the license for any one of the following reasons:

(1) The licensee has violated any of the provisions of K.S.A. 41-2701 et seq., and amendments thereto, or any rules or regulations made by the board or the city, as the case may be;

(2) drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;

(3) the sale of cereal malt beverages *or beer containing not more than 6% alcohol by volume* to any person under the legal age for consumption of cereal malt beverage;

(4) permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;

(5) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102, and amendments thereto, *except beer containing not more than 6% alcohol by volume*; or

(6) the licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.

(b) The provisions of subsections (a)(4) and (5) shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(c) The board of county commissioners or the governing body of any

city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) the licensee has become ineligible to obtain a license under this act;

(3) the nonpayment of any license fees;

(4) permitting any gambling in or upon the licensee's place of business;

(5) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages *or beer containing not more than 6% alcohol by volume*;

(6) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or

(7) there has been a violation of K.S.A. 21-4106 or 21-4107, prior to their repeal, or K.S.A. 2016 Supp. 21-6204, and amendments thereto, in or upon the licensee's place of business.

(d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal.

Sec. 12. On and after April 1, 2019, K.S.A. 2016 Supp. 41-2722 is hereby amended to read as follows: 41-2722. (a) No retailer, or employee or agent of a retailer, licensed to sell cereal malt beverage *and beer containing not more than 6% alcohol by volume* for consumption on the licensed premises shall:

(1) Offer or serve any free cereal malt beverage *or beer containing not more than 6% alcohol by volume* to any person;

(2) offer or serve to any person a drink at a price that is less than the acquisition cost of the drink to the licensee;

(3) sell, offer to sell or serve to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the general public;

(4) encourage or permit, on the licensed premises, any game or contest which involves drinking cereal malt beverage *or beer containing not more than 6% alcohol by volume* or the awarding of drinks as prizes; or

(5) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (4).

- (b) A retailer may:
- (1) Offer free food or entertainment at any time;
  - (2) sell, offer to sell and serve individual drinks at different prices throughout any day; or
  - (3) sell or serve cereal malt beverage in a pitcher capable of containing not more than 64 fluid ounces.
- (c) Violation of any provisions of this section is a misdemeanor punishable as provided by K.S.A. 41-2711, and amendments thereto.
- (d) Violation of any provision of this act shall be grounds for suspension or revocation of the retailer's license as provided by K.S.A. 41-2708, and amendments thereto.
- (e) Every licensee subject to the provisions of this section shall make available at any time upon request a price list showing the licensee's current prices for all cereal malt beverages *and beer containing not more than 6% alcohol by volume*.
- (f) This section shall be part of and supplemental to K.S.A. 41-2701 through 41-2721, and amendments thereto.

Sec. 13. On and after April 1, 2019, K.S.A. 41-2726 is hereby amended to read as follows: 41-2726. (a) No retailer licensed under K.S.A. 41-2701 et seq., and amendments thereto, to sell cereal malt beverage *or beer containing not more than 6% alcohol by volume* in original and unopened containers and not for consumption on the licensed premises shall sell or offer for sale *directly or indirectly* any cereal malt beverage *or beer containing not more than 6% alcohol by volume* at a price that is less than the acquisition cost of such cereal malt beverage *or beer containing not more than 6% alcohol by volume* to the licensee.

(b) *The director may issue to a retailer a permit authorizing the retailer to sell cereal malt beverage or beer containing not more than 6% alcohol by volume at less than the acquisition cost thereof, if:*

(1) *The retailer is actually closing out the retailer's stock for the purpose of completely discontinuing sale of the item for a period of not less than 12 months;*

(2) *the item is damaged or deteriorated in quality and notice is given to the public thereof; or*

(3) *the sale of the item is by an officer acting under the order of a court.*

(c) Violation of this section is a misdemeanor punishable as provided by K.S.A. 41-2711, and amendments thereto.

~~(e)~~(d) Violation of this section shall be grounds for suspension or revocation of the retailer's license as provided by K.S.A. 41-2708, and amendments thereto.

Sec. 14. On and after April 1, 2019, K.S.A. 41-103, 41-2706 and 41-2726 and K.S.A. 2016 Supp. 41-102, 41-307, 41-308, 41-2701, 41-2702, 41-2704, 41-2708 and 41-2722 are hereby repealed.

Sec. 15. This act shall take effect and be in force from and after January 1, 2018, and its publication in the statute book.

Approved April 18, 2017.

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## CHAPTER 57

### House Substitute for SENATE BILL No. 51

AN ACT concerning controlled substances; the state board of pharmacy; relating to scheduling of controlled substance analogs, controlled substances and new drugs; emergency scheduling; amending K.S.A. 2016 Supp. 21-5701, 65-4101, 65-4102, 65-4105, 65-4107, 65-4111 and 65-4113 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 21-5701 is hereby amended to read as follows: 21-5701. As used in K.S.A. 2016 Supp. 21-5701 through 21-5717, and amendments thereto: (a) “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.

(b) (1) “Controlled substance analog” means a substance that is intended for human consumption, and *at least one of the following*:

(A) The chemical structure of ~~which~~ *the substance* 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~~ *the substance* 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~~ *the such* individual represents or intends *the substance* to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application;

or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal

food, drug, and cosmetic act—(, 21 U.S.C. § 355), to the extent conduct with respect to the substance is permitted by the exemption.

(c) “Cultivate” means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(d) “Distribute” means the actual, constructive or attempted transfer from one person to another of some item whether or not there is an agency relationship. “Distribute” includes, but is not limited to, sale, offer for sale or any act that causes some item to be transferred from one person to another. “Distribute” does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act or otherwise authorized by law.

(e) “Drug” means:

(1) Substances recognized as drugs in the official United States ~~pharmacopoeia~~ *pharmacopoeia*, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;

(2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

(3) substances, other than food, intended to affect the structure or any function of the body of man or animals; and

(4) substances intended for use as a component of any article specified in paragraph (1), (2) or (3). It does not include devices or their components, parts or accessories.

(f) “Drug paraphernalia” means all equipment and materials of any kind which are used, or primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance and in violation of this act. “Drug paraphernalia” shall include, but is not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

(4) testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) scales and balances used or intended for use in weighing or measuring controlled substances;

(6) diluents and adulterants, including, but not limited to, quinine

hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances;

(7) separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;

(8) blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

(9) capsules, balloons, envelopes, bags and other containers used or intended for use in packaging small quantities of controlled substances;

(10) containers and other objects used or intended for use in storing or concealing controlled substances;

(11) hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;

(12) objects used or primarily intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, hashish oil, phencyclidine (PCP), methamphetamine or amphetamine into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device;

(C) carburetion pipes, glass or other heat resistant tubes or any other device used ~~or~~, intended to be used; *or* designed to be used to cause vaporization of a controlled substance for inhalation;

(D) smoking and carburetion masks;

(E) roach clips, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(F) miniature cocaine spoons and cocaine vials;

(G) chamber smoking pipes;

(H) carburetor smoking pipes;

(I) electric smoking pipes;

(J) air-driven smoking pipes;

(K) chillums;

(L) bongs;

(M) ice pipes or chillers;

(N) any smoking pipe manufactured to disguise its intended purpose;

(O) wired cigarette papers; or

(P) cocaine freebase kits.

“Drug paraphernalia” shall not include any products, chemicals or materials described in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5709(a), and amendments thereto.

(g) “Immediate precursor” means a substance which the *state* board of pharmacy has found to be and by rules and regulations 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.

(h) “Isomer” means all enantiomers and diastereomers.

(i) “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. “Manufacture” does not include:

(1) 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:

(A) 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

(B) 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; or

(2) the addition of diluents or adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose or lactose, which are intended for use in cutting a controlled substance.

(j) “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. “Marijuana” does not include: (1) 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; or (2) any substance listed in schedules II through V of the uniform controlled substances act.

(k) “Minor” means a person under 18 years of age.

(l) “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.

(m) "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. "Opiate" 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). "Opiate" does include its racemic and levorotatory forms.

(n) "Opium poppy" means the plant of the species *Papaver somniferum* L. except its seeds.

(o) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or any other legal entity.

(p) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(q) "Possession" means having joint or exclusive control over an item with knowledge of and intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.

(r) "School property" means property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12. This definition shall not be construed as requiring that school be in session or that classes are actually being held at the time of the offense or that children must be present within the structure or on the property during the time of any alleged criminal act. If the structure or property meets the above definition, the actual use of that structure or property at the time alleged shall not be a defense to the crime charged or the sentence imposed.

(s) "Simulated controlled substance" means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

Sec. 2. K.S.A. 2016 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 *at least one of the following*:

(A) The chemical structure of ~~which~~ *the substance* 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~~ *the substance* 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 *the substance* to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application;

or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

(h) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization bears the trade-

mark, 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~~ *pharmacopeia*, 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 human or animals; (3) substances (other than food) intended to affect the structure or any function of the body of human or animals; and (4) substances intended for use as a component of any article specified in paragraph (1), (2) or (3). It does not include devices or their components, parts or accessories.

(q) “Immediate precursor” means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(r) “Electronic prescription” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) “Electronic prescription application” means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber’s computers and servers where access and records are controlled by the prescriber.

(t) “Electronic signature” means a confidential personalized digital

key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(u) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(v) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(w) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(x) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(aa) "Marijuana" means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mix-

ture or preparation of the plant, its seeds or resin. It does not include: (1) 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; or (2) *any substance listed in schedules II through V of the uniform controlled substances act.*

(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 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 gov-

ernmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) “Pharmacist” means any natural person licensed under K.S.A. 65-1625 et seq., and amendments thereto, to practice pharmacy.

(ii) “Pharmacist intern” means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person’s internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

(jj) “Pharmacy prescription application” means software that is used to process prescription information, is installed on a pharmacy’s computers and servers, and is controlled by the pharmacy.

(kk) “Poppy straw” means all parts, except the seeds, of the opium poppy, after mowing.

(ll) “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(mm) “Prescriber” means a practitioner or a mid-level practitioner.

(nn) “Production” includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(oo) “Readily retrievable” means that records kept by automatic data processing applications or other electronic or mechanized recordkeeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(pp) “Ultimate user” means a person who lawfully possesses a controlled substance for such person’s own use or for the use of a member of such person’s household or for administering to an animal owned by such person or by a member of such person’s household.

Sec. 3. K.S.A. 2016 Supp. 65-4102 is hereby amended to read as follows: 65-4102. (a) The board shall administer this act and may adopt rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state. All rules and regulations of the board shall be adopted in conformance with article 4 of chapter 77 of the Kansas Statutes Annotated, *and amendments thereto*, and the procedures prescribed by this act.

(b) Annually, the board shall submit to the speaker of the house of representatives and the president of the senate a report on substances proposed by the board for scheduling, rescheduling or deletion by the

legislature with respect to any one of the schedules as set forth in this act, ~~and reasons for the proposal shall be submitted by the board there-  
with~~ and a report of the substances scheduled during the preceding calendar year under subsection (e), if any, along with the reasons for the proposal and the scheduling. In making a determination regarding the proposal to schedule, reschedule or delete a substance, the board shall consider the following:

- (1) The actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect, if known;
- (3) the state of current scientific knowledge regarding the substance;
- (4) the history and current pattern of abuse;
- (5) the scope, duration and significance of abuse;
- (6) the risk to the public health;
- (7) the potential of the substance to produce psychological or physiological dependence liability; and
- (8) whether the substance is an immediate precursor of a substance already controlled under this article.

(c) The board shall not include any nonnarcotic substance within a schedule if such substance may be lawfully sold over the counter without a prescription under the federal food, drug and cosmetic act.

(d) Authority to control under this section does not extend to distilled spirits, wine, malt beverages or tobacco.

(e) (1) Upon receipt of notice under K.S.A. 2016 Supp. 21-5715, and amendments thereto, *or upon the board's finding of an imminent hazard to the public safety*, the board shall initiate scheduling of the controlled substance analog *or a new drug, as defined in this subsection*, on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires ~~one year~~ *on July 1 of the following calendar year after the adoption of the scheduling rule and regulation.*

(2) With respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsections (b)(4), (5) and (6), and may also consider clandestine importation, manufacture or distribution, and if available, information concerning the other factors set forth in subsection (b).

(3) A rule *and regulation* may not be adopted under this subsection until the board initiates a rulemaking proceeding under subsection (a) with respect to the substance. ~~A rule adopted under this subsection lapses upon the conclusion of the rulemaking proceeding initiated under subsection (a) with respect to the substance. A rule and regulation adopted under this subsection shall expire on July 1 of the calendar year following the year of its adoption.~~

(4) *As used in this subsection, "new drug" means: (A) Any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate*



the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or (B) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in such investigations, been used to a material extent or for a material time under such conditions. The term “new drug” shall not include amygdalin (laetrile).

Sec. 4. K.S.A. 2016 Supp. 65-4105 is hereby amended to read as follows: 65-4105. (a) The controlled substances listed in this section are included in schedule I and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide) ..... 9821
- (2) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide) ..... 9815
- (3) Acetylmethadol ..... 9601
- (4) AH-7921 (3,4-dichloro-N-[(1-dimethylaminocyclohexylmethyl)benzamide] ..... 9551
- ~~(4)~~(5) Allylprodine ..... 9602
- ~~(5)~~(6) Alphacetylmethadol ..... 9603  
(except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM)
- ~~(6)~~(7) Alphameprodine ..... 9604
- ~~(7)~~(8) Alphamethadol ..... 9605
- ~~(8)~~(9) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine) ..... 9814
- ~~(9)~~(10) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide) ..... 9832
- ~~(10)~~(11) Benzethidine ..... 9606
- ~~(11)~~(12) Betacetylmethadol ..... 9607
- ~~(12)~~(13) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide) ..... 9830
- ~~(13)~~(14) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide) ..... 9831
- (15) Beta-hydroxythiofentanyl (N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropanamide) ..... 9836

<del>(14)</del> (16)	Betameprodine .....	9608
<del>(15)</del> (17)	Betamethadol .....	9609
<del>(16)</del> (18)	Betaprodine .....	9611
(19)	<i>Butyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide)</i> .....	9822
<del>(17)</del> (20)	Clonitazene .....	9612
<del>(18)</del> (21)	Dextromoramide .....	9613
<del>(19)</del> (22)	Diampromide .....	9615
<del>(20)</del> (23)	Diethylthiambutene .....	9616
<del>(21)</del> (24)	Difenoxin .....	9168
<del>(22)</del> (25)	Dimenoxadol .....	9617
<del>(23)</del> (26)	Dimepheptanol .....	9618
<del>(24)</del> (27)	Dimethylthiambutene .....	9619
<del>(25)</del> (28)	Dioxaphetyl butyrate .....	9621
<del>(26)</del> (29)	Dipipanone .....	9622
<del>(27)</del> (30)	Ethylmethylthiambutene .....	9623
<del>(28)</del> (31)	Etonitazene .....	9624
<del>(29)</del> (32)	Etoxidine .....	9625
(33)	<i>Furanyl fentanyl N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide</i> .....	9834
<del>(30)</del> (34)	Furethidine .....	9626
<del>(31)</del> (35)	Hydroxypethidine .....	9627
<del>(32)</del> (36)	Ketobemidone .....	9628
<del>(33)</del> (37)	Levomoramide .....	9629
<del>(34)</del> (38)	Levophenacymorphan .....	9631
<del>(35)</del> (39)	3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide) .....	9813
<del>(36)</del> (40)	3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide) .....	9833
<del>(37)</del> (41)	Morpheridine .....	9632
(42)	<i>O-desmethyltramadol</i> <i>Some trade or other names: 2-((dimethylamino)methyl-1-(3-hydroxyphenyl)cyclohexanol;3-(2-((dimethylamino)methyl)-1-hydroxycyclohexyl)phenol</i>	
<del>(38)</del> (43)	MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) .....	9661
<del>(39)</del> (44)	Noracymethadol .....	9633
<del>(40)</del> (45)	Norlevorphanol .....	9634
<del>(41)</del> (46)	Normethadone .....	9635
<del>(42)</del> (47)	Norpipanone .....	9636
<del>(43)</del> (48)	Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide) .....	9812
<del>(44)</del> (49)	PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine) .....	9663
<del>(45)</del> (50)	Phenadoxone .....	9637
<del>(46)</del> (51)	Phenamipromide .....	9638

~~(47)~~(52) Phenomorphan ..... 9647  
~~(48)~~(53) Phenoperidine ..... 9641  
~~(49)~~(54) Piritramide ..... 9642  
~~(50)~~(55) Proheptazine ..... 9643  
~~(51)~~(56) Properidine ..... 9644  
~~(52)~~(57) Propiram ..... 9649  
~~(53)~~(58) Racemoramide ..... 9645  
~~(54)~~(59) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide) ..... 9835  
~~(55)~~(60) Tilidine ..... 9750  
~~(56)~~(61) Trimeperidine ..... 9646  
(62) U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)

(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 ex-

istence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) *Alpha-ethyltryptamine* ..... 7249  
Some trade or other names: *etryptamine; Monase; α-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α-ET; and AET.*
- (2) 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)~~(3) 2,5-dimethoxyamphetamine ..... 7396  
Some trade or other names: 2,5-dimethoxy-alpha-methyl-phenethylamine; 2,5-DMA.
- ~~(3)~~(4) 4-methoxyamphetamine ..... 7411  
Some trade or other names: 4-methoxy-alpha-methylphene-thylamine; paramethoxyamphetamine; PMA.
- ~~(4)~~(5) 5-methoxy-3,4-methylenedioxy-amphetamine ..... 7401
- ~~(5)~~(6) 4-methyl-2,5-dimethoxy-amphetamine ..... 7395  
Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; “DOM”; and “STP”.
- ~~(6)~~(7) 3,4-methylenedioxy amphetamine ..... 7400
- ~~(7)~~(8) 3,4-methylenedioxymethamphetamine (MDMA) ..... 7405
- ~~(8)~~(9) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA) ..... 7404
- ~~(9)~~(10) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4-(methylenedioxy) phenethylamine, and N-hydroxy MDA) ..... 7402
- ~~(10)~~(11) 3,4,5-trimethoxy amphetamine ..... 7390
- ~~(11)~~(12) 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)~~(13) Diethyltryptamine ..... 7434  
Some trade or other names: N,N-Diethyltryptamine; DET.
- ~~(13)~~(14) Dimethyltryptamine ..... 7435  
Some trade or other names: DMT.
- ~~(14)~~(15) 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

<del>(15)</del> (16)	Lysergic acid diethylamide .....	7315
<del>(16)</del> (17)	Marijuana .....	7360
<del>(17)</del> (18)	Mescaline .....	7381
<del>(18)</del> (19)	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.	
<del>(19)</del> (20)	Peyote .....	7415
	Meaning all parts of the plant presently classified botanically as <i>Lophophora williamsii</i> Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.	
<del>(20)</del> (21)	N-ethyl-3-piperidyl benzilate .....	7482
<del>(21)</del> (22)	N-methyl-3-piperidyl benzilate .....	7484
<del>(22)</del> (23)	Psilocybin .....	7437
<del>(23)</del> (24)	Psilocyn .....	7438
	Some trade or other names: Psilocin.	
<del>(24)</del> (25)	Ethylamine analog of phencyclidine .....	7455
	Some trade or other names: N-ethyl-1-phenyl-cyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE.	
<del>(25)</del> (26)	Pyrrolidine analog of phencyclidine .....	7458
	Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; PHP.	
<del>(26)</del> (27)	Thiophene analog of phencyclidine .....	7470
	Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP.	
<del>(27)</del> (28)	1-[1-(2-thienyl)-cyclohexyl] pyrrolidine .....	7473
	Some other names: TCPy.	
<del>(28)</del> (29)	2,5-dimethoxy-4-ethylamphetamine .....	7399
	Some trade or other names: DOET.	
<del>(29)</del> (30)	Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as <i>salvia divinorum</i> , whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.	
<del>(30)</del> (31)	Datura stramonium, commonly known as gypsum weed or jimson weed; all parts of the plant presently classified botanically as <i>datura stramonium</i> , whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.	

<del>(31)</del> (32)	N-benzylpiperazine .....	7493
	Some trade or other names: BZP.	
<del>(32)</del> (33)	1-(3-[trifluoromethylphenyl])piperazine Some trade or other names: TFMPP.	
<del>(33)</del> (34)	4-Bromo-2,5-dimethoxyphenethylamine .....	7392
<del>(34)</del> (35)	2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts and salts of optical isomers .....	7348
<del>(35)</del> (36)	Alpha-methyltryptamine (other name: AMT) .....	7432
<del>(36)</del> (37)	5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts and salts of isomers .....	7439
<del>(37)</del> (38)	2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E) .....	7509
<del>(38)</del> (39)	2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D) ...	7508
<del>(39)</del> (40)	2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C) ....	7519
<del>(40)</del> (41)	2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I) .....	7518
<del>(41)</del> (42)	2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2) .....	7385
<del>(42)</del> (43)	2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4) .....	7532
<del>(43)</del> (44)	2-(2,5-Dimethoxyphenyl)ethanamine (2C-H) .....	7517
<del>(44)</del> (45)	2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine (2C-N) .....	7521
<del>(45)</del> (46)	2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P) .....	7524
<del>(46)</del> (47)	5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT) .....	7431
	Some trade or other names: 5-methoxy-3-[2- (dimethylamino) ethyl]indole.	
<del>(47)</del> (48)	2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine .....	7538
	Some trade or other names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5.	
<del>(48)</del> (49)	2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine .....	7537
	Some trade or other names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82.	
<del>(49)</del> (50)	2-(4-bromo-2,5-dimethoxyphenyl)-N-(2- methoxybenzyl)ethanamine .....	7536
	Some trade or other names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36.	
<del>(50)</del> (51)	2-(2,5-dimethoxyphenyl)-N-(2- methoxybenzyl)ethanamine Some trade or other names: 25H-NBOMe.	
<del>(51)</del> (52)	2-(2,5-dimethoxy-4-methylphenyl)-N-(2- methoxybenzyl)ethanamine Some trade or other names: 25D-NBOMe; 2C-D-NBOMe.	
<del>(52)</del> (53)	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) *Etizolam*  
Some trade or other names: (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine)
- (2) Mecloqualone ..... 2572
- ~~(2)~~(3) Methaqualone ..... 2565
- ~~(3)~~(4) 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) *Aminorex* ..... 1585  
Some other names: Aminoxaphen 2-amino-5-phenyl-2-oxazolone or 4,5-dihydro-5-phenyl-2-oxazolamine
- (2) Fenethylamine ..... 1503
- ~~(2)~~(3) N-ethylamphetamine ..... 1475
- ~~(3)~~(4) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine) ..... 1590
- ~~(4)~~(5) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine) ..... 1480
- ~~(5)~~(6) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-amino propiophenone, 2-amino propiophenone and norphedrone) ..... 1235
- ~~(6)~~(7) Substituted cathinones

Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

- (A) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
- (B) by substitution at the 3-position with an acyclic alkyl substituent;

- (C) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
- (D) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(g) Any material, compound, mixture or preparation which contains any quantity of the following substances:

- (1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers ..... 9818
- (2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thethylfentanyl), 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: tryptamine, 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, benzyl, 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 benzyl or 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, *benzyl*, 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 *benzyl or* 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, *benzyl*, 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 *benzyl or* naphthyl ring to any extent.
- (5) Naphthylmethylindenenes  
Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, *benzyl*, 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 *benzyl or* 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, *benzyl*, 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 *benzyl or* 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,

- benzyl*, 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 *benzyl* or 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, 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. 5. K.S.A. 2016 Supp. 65-4107 is hereby amended to read as follows: 65-4107. (a) The controlled substances listed in this section are included in schedule II and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrophan, nalbuphine, nalmefene, naloxone and naltrexone and their respective salts, but including the following:

- (A) Raw opium ..... 9600
- (B) Opium extracts ..... 9610
- (C) Opium fluid ..... 9620
- (D) Powdered opium ..... 9639
- (E) Granulated opium ..... 9640
- (F) Tincture of opium ..... 9630
- (G) Codeine ..... 9050
- (H) Ethylmorphine ..... 9190
- (I) Etorphine hydrochloride ..... 9059
- (J) Hydrocodone ..... 9193
- (K) Hydromorphone ..... 9150
- (L) Metopon ..... 9260
- (M) Morphine ..... 9300
- (N) Oxycodone ..... 9143
- (O) Oxymorphone ..... 9652
- (P) Thebaine ..... 9333
- (Q) Dihydroetorphine ..... 9334
- (R) Oripavine ..... 9330

(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

- (3) Opium poppy and poppy straw.
- (4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine (9041) or ecgonine (9180).
- (5) Cocaine, its salts, isomers and salts of isomers (9041).
- (6) Ecgonine, its salts, isomers and salts of isomers (9180).
- (7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy) (9670).

(c) Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation dextrorphan and levopropoxyphene excepted:

(1) Alfentanil .....	9737
(2) Alphaprodine .....	9010
(3) Anileridine .....	9020
(4) Bezitramide .....	9800
(5) Bulk dextropropoxyphene (nondosage forms) .....	9273
(6) Carfentanil .....	9743
(7) Dihydrocodeine .....	9120
(8) Diphenoxylate .....	9170
(9) Fentanyl .....	9801
(10) Isomethadone .....	9226
(11) Levomethorphan .....	9210
(12) Levorphanol .....	9220
(13) Metazocine .....	9240
(14) Methadone .....	9250
(15) Methadone-intermediate, 4-cyano-2-dimethyl amino-4,4-diphenyl butane .....	9254
(16) Moramide-intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid .....	9802
(17) Pethidine (meperidine) .....	9230
(18) Pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine .....	9232
(19) Pethidine-intermediate-B, ethyl-4-phenyl-piperidine-4-carboxylate .....	9233
(20) Pethidine-intermediate-C, 1-methyl-4-phenyl-piperidine-4-carboxylic acid .....	9234
(21) Phenazocine .....	9715
(22) Piminodine .....	9730
(23) Racemethorphan .....	9732
(24) Racemorphan .....	9733
(25) Sufentanil .....	9740
(26) Levo-alphacetyl methadol .....	9648

Some other names: levo-alpha-acetyl methadol, levomethadyl acetate or LAAM.

- (27) Remifentanyl ..... 9739
- (28) Tapentadol ..... 9780
- (29) *Thiafentanyl* ..... 9729

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers and salts of its optical isomers ..... 1100
- (2) Phenmetrazine and its salts ..... 1631
- (3) Methamphetamine, including its salts, isomers and salts of isomers ..... 1105
- (4) Methylphenidate ..... 1724
- (5) Lisdexamfetamine, its salts, isomers, and salts of its isomers ..... 1205

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital ..... 2125
- (2) Glutethimide ..... 2550
- (3) Secobarbital ..... 2315
- (4) Pentobarbital ..... 2270
- (5) Phencyclidine ..... 7471

(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
  - (A) Phenylacetone ..... 8501  
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.
- (2) Immediate precursors to phencyclidine (PCP):
  - (A) 1-phenylcyclohexylamine ..... 7460
  - (B) 1-piperidinocyclohexanecarbonitrile (PCC) ..... 8603

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- Nabilone ..... 7379  
[Another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-

6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one]

(h) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium ..... 9805
- (2) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts ..... 9806

Sec. 6. K.S.A. 2016 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~~ *that* has been assigned to it.

(b) Any material, compound, mixture or preparation ~~which~~ *that* 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) Barbitol ..... 2145
- (3) Bromazepam ..... 2748
- (4) Camazepam ..... 2749
- (5) Carisoprodol ..... 8192
- (6) Chloral betaine ..... 2460
- (7) Chloral hydrate ..... 2465
- (8) Chlordiazepoxide ..... 2744
- (9) Clobazam ..... 2751
- (10) Clonazepam ..... 2737
- (11) Clorazepate ..... 2768
- (12) Clotiazepam ..... 2752
- (13) Cloxazolam ..... 2753
- (14) Delorazepam ..... 2754
- (15) Diazepam ..... 2765
- (16) Dichloralphenazone ..... 2467
- (17) Estazolam ..... 2756
- (18) Ethchlorvynol ..... 2540
- (19) Ethinamate ..... 2545
- (20) Ethyl loflazepate ..... 2758

(21) Fludiazepam ..... 2759

(22) Flunitrazepam ..... 2763

(23) Flurazepam ..... 2767

(24) Fospropofol ..... 2138

(25) Halazepam ..... 2762

(26) Haloxazolam ..... 2771

(27) Ketazolam ..... 2772

(28) Loprazolam ..... 2773

(29) Lorazepam ..... 2885

(30) Lormetazepam ..... 2774

(31) Mebutamate ..... 2800

(32) Medazepam ..... 2836

(33) Meprobamate ..... 2820

(34) Methohexital ..... 2264

(35) Methylphenobarbital (mephobarbital) ..... 2250

(36) Midazolam ..... 2884

(37) Nimetazepam ..... 2837

(38) Nitrazepam ..... 2834

(39) Nordiazepam ..... 2838

(40) Oxazepam ..... 2835

(41) Oxazolam ..... 2839

(42) Paraldehyde ..... 2585

(43) Petrichloral ..... 2591

(44) Phenobarbital ..... 2285

(45) Pinazepam ..... 2883

(46) Prazepam ..... 2764

(47) Quazepam ..... 2881

(48) Temazepam ..... 2925

(49) Tetrazepam ..... 2886

(50) Triazolam ..... 2887

(51) Zolpidem ..... 2783

(52) Zaleplon ..... 2781

(53) Zopiclone ..... 2784

(54) 2-[(dimethylamino)methyl]-1-(3-methoxy-phenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol) ..... 9752

(55) Alfaxalone ..... 2731

(56) Suvorexant ..... 2223

(c) Any material, compound, mixture, or preparation ~~which~~ *that* 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~~ *that* 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~~ *that* 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) Mondafinil ..... 1680

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation ~~which~~ *that* contains any quantity of the following, including salts thereof:

- (1) Pentazocine ..... 9709
- (2) Butorphanol (including its optical isomers) ..... 9720
- (3) *Cannabidiol, when comprising the sole active ingredient of a drug product approved by the United States food and drug administration*  
*Some other names for cannabidiol: 2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol*



~~(3)~~(4) Eluxadolone (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~~ *that* have a depressant effect on the central nervous system.

Sec. 7. K.S.A. 2016 Supp. 65-4113 is hereby amended to read as follows: 65-4113. (a) The controlled substances or drugs, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section are included in schedule V.

(b) Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams.
- (2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams.
- (3) Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams.
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than .5 milligram of difenoxin (9168) and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) 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) Propylhexedrine (except when part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counter without a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose). 8161
- (2) Pyrovalerone ..... 1485

(d) Any compound, mixture or preparation containing any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers.

(e) Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.

(f) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

- (1) *Brivaracetam* ((2*S*)-2-[(4*R*)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (some trade or other names *BRV*; *UCB-34714*; *Briviact*) ..... 2710
- (2) Ezogabine N-[2-amino-4(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester ..... 2779
- ~~(2)~~(3) Lacosamide [(*R*)-2-acetoamido-N-benzyl-3-methoxypropionamide] ..... 2746
- ~~(3)~~(4) Pregabalin [(*S*)-3-(aminomethyl)-5-methylhexanoic acid] ... 2782

Sec. 8. K.S.A. 2016 Supp. 21-5701, 65-4101, 65-4102, 65-4105, 65-4107, 65-4111 and 65-4113 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 21, 2017.  
Published in the *Kansas Register* May 4, 2017.



## CHAPTER 58

## SENATE BILL No. 124

AN ACT concerning the care of children; relating to the Kansas family law code; child custody, residency and parenting time; evidence of domestic abuse; relating to the revised Kansas code for the care of children; rules of evidence; admissibility of certain test results; amending K.S.A. 2016 Supp. 23-3201, 23-3203 and 38-2249 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 23-3201 is hereby amended to read as follows: 23-3201. The court shall determine *legal* custody ~~or~~, residency and parenting time of a child in accordance with the best interests of the child.

Sec. 2. K.S.A. 2016 Supp. 23-3203 is hereby amended to read as follows: 23-3203. (a) In determining the issue of legal custody, residency and parenting time of a child, the court shall consider all relevant factors, including, but not limited to:

- (1) Each parent's role and involvement with the minor child before and after separation;
- (2) the desires of the child's parents as to custody or residency;
- (3) the desires of a child of sufficient age and maturity as to the child's custody or residency;
- (4) the age of the child;
- (5) the emotional and physical needs of the child;
- (6) the interaction and interrelationship of the child with parents, siblings and any other person who may significantly affect the child's best interests;
- (7) the child's adjustment to the child's home, school and community;
- (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;
- (9) evidence of ~~spousal abuse, either emotional or physical~~ domestic abuse, including, but not limited to:
  - (A) A pattern or history of physically or emotionally abusive behavior or threat thereof used by one person to gain or maintain domination and control over an intimate partner or household member; or
  - (B) an act of domestic violence, stalking or sexual assault;
- (10) the ability of the parties to communicate, cooperate and manage parental duties;
- (11) the school activity schedule of the child;
- (12) the work schedule of the parties;
- (13) the location of the parties' residences and places of employment;
- (14) the location of the child's school;
- (15) whether a parent is subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amend-

ments thereto, or any similar act in any other state, or under military or federal law;

(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. 2016 Supp. 21-5602, and amendments thereto;

(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

(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. 2016 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. 3. K.S.A. 2016 Supp. 38-2249 is hereby amended to read as follows: 38-2249. (a) In all proceedings under this code, the rules of evidence of the code of civil procedure shall apply, except that no evidence relating to the condition of a child shall be excluded solely on the ground that the matter is or may be the subject of a physician-patient privilege, psychologist-client privilege or social worker-client privilege.

(b) (1) The judge presiding at all hearings under this code shall not consider or rely upon any report not properly admitted according to the rules of evidence, except as provided by K.S.A. 2016 Supp. 38-2219, and amendments thereto.

(2) *In all proceedings under this code, a report concerning the results and analysis of a court-ordered test of a person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs shall be admissible in evidence if the report is prepared and attested to by the person conducting the test or an authorized employee of the facility that conducted the test. Such person shall prepare a certificate that includes an attestation as to the result and analysis of the test and sign the certificate under oath. Nothing in this section shall prevent a party from calling such person as a witness.*

(c) In any proceeding in which a child less than 13 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, a recording of an oral statement of the child, or of any witness less than 13 years of age, made before the proceeding began, is admissible in evidence if:

(1) The court determines that the time, content and circumstances of the statement provide sufficient indicia of reliability;

(2) no attorney for any party or interested party is present when the statement is made;

(3) the recording is both visual and aural and is recorded on film, videotape or by other electronic means;

(4) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;

(5) the statement is not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question;

(6) every voice on the recording is identified;

(7) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party or interested party; and

(8) each party or interested party to the proceeding is afforded an opportunity to view the recording before it is offered into evidence.

(d) On motion of any party to a proceeding pursuant to the code in which a child less than 13 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, the court may order that the testimony of the child, or of any witness less than 13 years of age, be taken:

(1) In a room other than the courtroom and be televised by closed-circuit equipment in the courtroom to be viewed by the court and the parties and interested parties to the proceeding; or

(2) outside the courtroom and be recorded for showing in the courtroom before the court and the parties and interested parties to the proceeding if:

(A) The recording is both visual and aural and is recorded on film, videotape or by other electronic means;

(B) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;

(C) every voice on the recording is identified; and

(D) each party and interested party to the proceeding is afforded an opportunity to view the recording before it is shown in the courtroom.

(e) At the taking of testimony under subsection (d):

(1) Only an attorney for each party, interested party, the guardian ad litem for the child or other person whose presence would contribute to the welfare and well-being of the child and persons necessary to operate the recording or closed-circuit equipment may be present in the room with the child during the child's testimony;

(2) only the attorneys for the parties may question the child; and

(3) the persons operating the recording or closed-circuit equipment shall be confined to an adjacent room or behind a screen or mirror that

permits such person to see and hear the child during the child's testimony, but does not permit the child to see or hear such person.

(f) If the testimony of a child is taken as provided by subsection (d), the child shall not be compelled to testify in court during the proceeding.

(g) (1) Any objection to a recording under subsection (d)(2) that such proceeding is inadmissible must be made by written motion filed with the court at least seven days before the commencement of the adjudicatory hearing. An objection under this subsection shall specify the portion of the recording which is objectionable and the reasons for the objection. Failure to file an objection within the time provided by this subsection shall constitute waiver of the right to object to the admissibility of the recording unless the court, in its discretion, determines otherwise.

(2) The provisions of this subsection shall not apply to any objection to admissibility for the reason that the recording has been materially altered.

Sec. 4. K.S.A. 2016 Supp. 23-3201, 23-3203 and 38-2249 are hereby repealed.

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

Approved April 21, 2017.

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## CHAPTER 59

### SENATE BILL No. 202\*

AN ACT concerning tribal-state compacts; approving a compact between the Kickapoo Tribe in Kansas and the state of Kansas; approving a compact between the Sac and Fox Nation of Missouri in Kansas and Nebraska and the state of Kansas; relating to cigarette and tobacco sales, taxation and escrow collection.

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

Section 1. (a) The compact relating to cigarette and tobacco sales, taxation and escrow collection between the Kickapoo Tribe in Kansas and the state of Kansas submitted by the governor to the senate and house of representatives of the state of Kansas and received and printed in the journal of the senate and the journal of the house of representatives on January 27, 2017, is hereby approved and adopted by reference as the law of this state.

(b) The secretary of the senate is directed to send a copy of such compact to the secretary of state. The secretary of state shall cause such compact to be published in the Kansas register.

Sec. 2. (a) The compact relating to cigarette sales, taxation and escrow collection between the Sac and Fox Nation of Missouri in Kansas and

Nebraska and the state of Kansas submitted by the governor to the senate and house of representatives of the state of Kansas and received and printed in the journal of the senate on March 16, 2017, and the journal of the house of representatives on March 15, 2017, is hereby approved and adopted by reference as the law of this state.

(b) The secretary of the senate is directed to send a copy of such compact to the secretary of state. The secretary of state shall cause such compact to be published in the Kansas register.

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

Approved April 21, 2017.

Published in the *Kansas Register* May 4, 2017.

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**COMPACT RELATING TO CIGARETTE AND TOBACCO SALES, TAXATION AND ESCROW COLLECTION**

THIS COMPACT RELATING TO CIGARETTE AND TOBACCO SALES, TAXATION AND ESCROW COLLECTION (“**Compact**”) is entered into between the Kickapoo Tribe in Kansas (along with its agencies, boards, commissions and political subdivisions, the “**Tribe**”) and the State of Kansas (along with its agencies, boards, commissions and political subdivisions, the “**State**”). The Tribe and the State are each referred to herein as a “**Party**” and collectively referred to herein as the “**Parties.**”

**Recitals**

WHEREAS, the Tribe is a federally-recognized Indian tribe possessing and exercising inherent sovereign powers of self-government, as defined and recognized by treaties, federal laws and federal court decisions, and that it has responsibilities and needs similar to other governments;

WHEREAS, the State is a state within the United States of America possessing and exercising full powers of state government, as defined and recognized by the United States Constitution, federal laws, federal court decisions, the Kansas Constitution, State laws and State court decisions, and that it has responsibilities and needs similar to other governments;

WHEREAS, both the State and the Tribe recognize that pursuant to applicable law each is a sovereign with dominion over their respective territories and governments and that entry into this Compact is not intended nor shall it be construed to cause the sovereignty of either to be diminished;

WHEREAS, the Tribe is situated on and occupies a federally-established Indian Reservation situated within the borders of the State;

WHEREAS, federal law recognizes that tribal jurisdiction exists on Qualified Tribe Lands regarding the rights of the Tribe to pass its own laws and be governed by them;

WHEREAS, it is in the best interests of both the State and the Tribe to prevent disputes between the Parties regarding possession, transport, distribution, and Sale of Cigarettes and other Tobacco Products, including but not limited to taxation and escrow collection, in the State of Kansas, on Compact Lands;

WHEREAS, each of the State and the Tribe recognize the financial, cultural, educational, and economic contributions of the other;

WHEREAS, each of the State and the Tribe respects the sovereignty of the other, and recognizes and supports the other's governmental responsibilities to provide for and govern its citizens, members and territory; the State recognizes the Tribe's inherent sovereign right to existence, self-government and self-determination; and the Tribe recognizes the State's inherent sovereign right to existence, self-government and self-determination;

WHEREAS, the Parties are of the opinion that cooperation between the Tribe and the State is mutually productive and beneficial and recognize the need to develop and maintain good Tribal-State governmental relations;

WHEREAS, it is in the best interests of the State to continue to reduce the financial burdens imposed on the State by Cigarette smoking and that said costs continue to be borne by Tobacco Product Manufacturers rather than by the State to the extent that such Tobacco Product Manufacturers either determine to enter into a settlement with the State or are found culpable by the courts;

WHEREAS, on November 23, 1998, the State became party to the MSA;

WHEREAS, certain Tobacco Product Manufacturers, which are party to the MSA, are obligated, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to State (tied in part to their volume of Sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking;

WHEREAS, it would be contrary to the policy of State if Tobacco Product Manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that State will have an eventual source of recovery from them if they are proven to have acted culpably;

WHEREAS, the State entered into a Secondary Settlement Agreement with certain participating Tobacco Product Manufacturers in 2012 set-



ting State’s obligations under the MSA and disputes regarding certain payment adjustments under the MSA with respect to NPMs (as that term is defined below) for calendar years 2003-2012;

WHEREAS, as part of said Secondary Settlement Agreement, State has agreed to undertake certain diligent enforcement efforts of its Cigarette and other Tobacco Product laws and more specifically, its MSA laws on Qualified Tribal Lands within the borders of State;

WHEREAS, State recognizes the importance to State of forming an alliance with Tribe to assist State in its diligent enforcement efforts;

WHEREAS, State further recognizes that the Tribe will incur certain economic costs in assisting State in its diligent enforcement efforts which Tribe should not be required to endure;

WHEREAS, it is altogether just and proper that State compensate the Tribe for its assistance to State in State’s diligent enforcement obligation under the MSA and the Secondary Settlement Agreement; and

WHEREAS, the State and the Tribe agree that it will serve the interests of both the State and the Tribe for the Tribe to be able to generate revenue for governmental purposes through the collection of certain Tribal taxes in accordance with this Compact and resolve their differences regarding the State’s collection of escrow on certain Cigarettes Sold on Compact Lands.

**Compact**

NOW, THEREFORE, in consideration of the foregoing recitals which are made a contractual part hereof, and in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**ARTICLE I  
DEFINITIONS**

**Section 1.01. Definitions.** Whenever used in this Compact, the following capitalized words and phrases shall have the following meanings:

“**AAA**” shall mean the American Arbitration Association.

“**Approved Manufacturer**” shall mean, subject to Section 4.02(c), a Tobacco Product Manufacturer which is (A) in compliance with the Escrow Statutes and the Fire Safety Statutes, and (B) listed on the KSAG’s directory of compliant manufacturers pursuant to K.S.A. 50-6a04(B). The KSAG’s directories of compliant Tobacco Product Manufacturers can be found on the KSAG’s website.

“**Auditor**” shall have the meaning set forth for such term in Section 6.02.

“**Business Day**” shall mean any day that the governmental offices of the Tribe are open for business.

**“Carton”** shall mean a container of two hundred (200) Cigarettes, whether consisting of either eight or ten Packs.

**“Cigarette”** shall mean any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use and consists of or contains:

- (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco;
- (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, Consumers as a Cigarette; or
- (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, Consumers as a Cigarette described in clause (1) above.

The term “Cigarette” includes “roll-your-own” (i.e., any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, Consumers as tobacco for making Cigarettes). For purposes of this definition, 0.09 ounces of “roll-your-own” tobacco shall constitute one individual “Cigarette.”

**“Compact”** shall have the meaning set forth for such term in the initial paragraph.

**“Compact Lands”** shall mean only the following Qualified Tribal Lands:

- (A) those Qualified Tribe Lands within the boundaries of the Tribe’s reservation granted in in the Treaty between the United States of America and the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, June 28, 1862, (13 Stats., 623).
- (B) those Qualified Tribe Lands described in Exhibit A attached to this Compact once the Secretary of the Department of Interior has fully acquired such land into trust for the beneficial use of the Tribe as authorized in accordance with Section 5 of the Indian Reorganization Act, 25 USC 465 and under 25 CFR § 151.10. The State agrees that it will not object to the Tribe’s on-reservation trust application for such land to be placed into trust status.

**“Consumer”** shall mean the individual or entity purchasing or receiving Cigarettes or other Tobacco Products for final use.

**“Dispute”** shall have the meaning set forth for such term in Section 7.01(b).

**“Dispute Party”** shall have the meaning set forth for such term in Section 7.01(b).

“**Effective Date**” shall have the meaning set forth for such term in Section 3.01.

“**Escrow Statutes**” shall mean Chapter 50, Article 6a of the Kansas Statutes Annotated.

“**Fire Safety Statutes**” shall mean Chapter 31, Article 6 of the Kansas Statutes Annotated.

“**Indian Tribe**” shall mean any Indian tribe, band, nation or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under the laws of the United States.

“**KDOR**” shall mean the Kansas Department of Revenue.

“**KSAG**” shall mean the Office of the Attorney General of the State of Kansas.

“**Licensed Distributor**” shall mean the Tribe, any Tribal Affiliate, or any individual or entity subject to the Tribe’s regulatory and tax jurisdiction, in each case conducting business pursuant to a valid tobacco distributor license issued by the Tribe.

“**Licensed Retailer**” shall mean the Tribe or any Tribal Affiliate conducting business pursuant to a valid tobacco retailer license issued by the Tribe.

“**MSA**” shall mean the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States Tobacco Product Manufacturers; provided, however, that such term does not include the Secondary Settlement Agreement.

“**Tribe**” shall have the meaning set forth for such term in the initial paragraph.

“**Tribal Affiliate**” shall mean an entity directly or indirectly wholly owned by the Tribe. Solely for purposes of this definition, the phrase “wholly owned by” means ownership of one hundred percent (100%) of an equity interest, or the equivalent thereof.

“**Tribal Claim Parties**” shall mean, collectively, Tribe, the Tribal Tax Department, and any Tribal Affiliate to the extent such Tribal Affiliate is either a Licensed Retailer or Licensed Distributor.

“**Tribal Tax Department**” shall mean the Kickapoo Tax Department, or such other successor commission, board, committee, council, department or agency charged under Tribal law with administration and enforcement of Tribal tax laws.

“**NPM**” shall have the meaning set forth for the term “Non-participating manufacturer” in K.S.A. § 50-6a07(g).

“**Pack**” shall mean one package of either twenty (20) or twenty-five (25) Cigarettes.

**“Parties”** or **“Party”** shall have the meaning set forth for such terms in the initial paragraph.

**“PM”** shall mean a **“participating manufacturer”** as that term is used in the Escrow Statutes.

**“Qualified Tribal Lands”** shall mean:

- (1) All land within the borders of the State that is within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of way running through such reservation;
- (2) all dependent Indian communities within the borders of the State;
- (3) all Indian allotments within the borders of the State, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments; and
- (4) any lands within the borders of the State, the title to which is either held in trust by the United States for the benefit of any Indian Tribe or individual, or held by any Indian Tribe or individual subject to restriction by the United States against alienation and over which an Indian Tribe exercises governmental power.

**“Qualified Tribe Lands”** shall mean the Tribe’s Qualified Tribal Lands.

**“Rules”** shall have the meaning set forth in Section 7.02(b).

**“Sale”** (and any correlative term, such as **“Sell,” “Seller,”** or **“Sold,”** shall have the correlative meaning) shall mean any sale, barter, trade, exchange, or other transfer of ownership for value of Cigarettes or other Tobacco Products, no matter how characterized.

**“Secondary Settlement Agreement”** shall mean the 2003 NPM adjustment settlement agreement, which shall include the 2012 term sheet agreement, related to the MSA and to which State is a party.

**“State”** shall have the meaning set forth for such term in the initial paragraph.

**“Tobacco Product”** shall mean any product, including any component, part, or accessory, made or derived from tobacco that is intended for human consumption through smoking, chewing or both, including but not limited to Cigarettes, Cigarette tobacco, roll-your-own tobacco, smokeless tobacco, cigars, pipe tobacco, dissolvables, gels, waterpipe tobacco, and electronic cigarettes.

**“Tobacco Product Manufacturer”** shall mean an entity that after the Effective Date directly (and not exclusively through any affiliate):

- (1) manufactures Cigarettes anywhere that such manufacturer intends to be Sold in the United States, including Cigarettes intended to be Sold in the United States through an importer;

- (2) is the first purchaser anywhere for resale in the United States of Cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or
- (3) becomes a successor of an entity described in paragraph (1) or (2).

The term “Tobacco Product Manufacturer” shall not include an affiliate of a Tobacco Product Manufacturer unless such affiliate itself falls within any of paragraphs (1) through (3) above. Solely for purposes of this definition, the term “affiliate” shall mean a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of the preceding sentence, the terms “owns,” “is owned” and “ownership” mean ownership of any equity interest, or the equivalent thereof, of 10% or more, and the term “person” means an individual, partnership, committee, association, corporation or any other organization or group of persons.

“**Units Sold**” shall mean, with respect to a particular Tobacco Product Manufacturer for a particular year, the number of individual Cigarettes Sold in the State, including, without limitation, any Cigarettes Sold on any Qualified Tribal Lands within the State, by the applicable Tobacco Product Manufacturer, whether directly or through a distributor, retailer or similar intermediary or intermediaries, during the year in question, for which the State has the authority under federal law to impose excise or a similar tax or to collect escrow deposits, regardless of whether such taxes were imposed or collected by the State.

**Section 1.02. Other Definitional Provisions.**

- (a) All capitalized terms defined in this Compact shall have the defined meanings when used as a capitalized term in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein.
- (b) As used herein and in any certificate or other document made or delivered pursuant hereto or thereto, accounting terms not defined in Section 1.01, and accounting terms partially defined in Section 1.01 to the extent not defined, shall have the respective meanings given to them under generally accepted accounting principles or regulatory accounting principles, as applicable. To the extent that the definitions of accounting terms herein are inconsistent with the meaning of such terms under generally accepted accounting principles or regulatory accounting principles, the definitions contained herein shall control.
- (c) The words “**hereof**,” “**herein**” and “**hereunder**” and words of similar import when used in this Compact shall refer to this Compact as a whole and not to any particular provision of this Compact; and Section, subsection, Schedule and Exhibit references contained in

this Compact are references to Sections, subsections, Schedules and Exhibits in or to this Compact unless otherwise specified.

- (d) Unless otherwise specifically noted herein, any capitalized word or term used in this Compact but not otherwise expressly defined herein shall have the same meaning as the definition provided for such capitalized word or term in Chapters 50 and 79 of the Kansas Statutes Annotated as in effect on January 1, 2016.

## ARTICLE II GENERAL PROVISIONS

**Section 2.01. Purpose of Compact.** The purpose of this Compact is to prevent disputes between the Parties regarding possession, transport, distribution, and Sale of Cigarettes and other Tobacco Products, including but not limited to taxation and escrow collection, in the State of Kansas, on Compact Lands, and on other Qualified Tribal Lands to the extent set forth herein.

**Section 2.02. External Citations.** The citation to any State statute or regulation in this Compact refers to the version in effect on January 1, 2016, unless otherwise specifically provided herein or unless the Parties specifically agree in writing to a modification of the Compact.

**Section 2.03. Scope of Compact.** Unless otherwise specifically provided herein, the terms and provisions of this Compact shall only apply to Cigarettes and other Tobacco Products Sold on Compact Lands. Notwithstanding any term or provision herein to the contrary, the Parties agree and acknowledge that the terms and provisions of this Compact shall not apply in any respect, including but not limited to taxation and escrow collection, to (i) any Tobacco Product Manufacturer or manufacturer of other Tobacco Products owned or operated by Tribe or any Tribal Affiliate during the term of this Compact, or (ii) the possession, transport, distribution, purchase, or Sale of Cigarettes or other Tobacco Products manufactured or imported by any Tobacco Product Manufacturer or manufacturer of other Tobacco Products, in each case to the extent described in clause (i).

## ARTICLE III EFFECTIVE DATE; TERM

**Section 3.01. Effective Date.** Subject to the prior full execution by the Parties, ratification by Tribe's Tribal Business Council by written resolution, and approval by State Legislature and publication in the Kansas Register, this Compact shall become effective on July 1, 2017 (the "Effective Date").

**Section 3.02. Term.**

- (a) This Compact shall have an initial term of ten (10) years subject to

automatic renewal for successive ten (10) year terms absent a requested revision in writing by any Party on or before August 1 in the calendar year prior to calendar year of the expiration of the then-current term. The Parties shall negotiate such requested revisions in good faith for a period ending fifteen (15) days before expiration of the then current term; *provided, however*, that if the Parties are not able to reach agreement on such requested revisions by such date, the Parties may agree to extend the then-current term beyond the expiration date for so long as the Parties agree that further negotiations are warranted; *provided, further*, that following expiration of the initial or any extended negotiation period, either Party may provide written notice of termination of the Compact effective on the later to occur of the expiration date of the then-current term or two Business Days following the date of delivery of such written notice of termination without giving effect to any extension agreed to by the Parties. In the event that the Parties reach agreement on the requested revisions, such revisions shall be reflected in an amendment to this Compact consistent with Section 8.08. In any event, the terms and provisions of this Compact shall continue to apply and the Parties shall conduct themselves accordingly until such time either that such amendment is fully executed, ratified and effective or that termination of this Compact is effective.

- (b) Notwithstanding any provision of this Compact to the contrary, in the event that State is subject to a final, binding arbitration award or decision of a court of competent jurisdiction that the State is non-compliant or has violated the terms of the MSA or Secondary Settlement Agreement due to State's compliance with its obligations under this Compact, the Parties shall attempt to negotiate amendments to this Compact for a period of not less than 90 days following State's written notice to Tribe of State's desire to initiate such negotiations. The Parties acknowledge that the purpose of such negotiations would be to amend the Compact in a manner acceptable to the Parties that would permit the State to comply with the terms and provisions of this Compact, the MSA, and the Secondary Settlement Agreement. If the Parties are unable to negotiate such amendments within such negotiation period, the State may terminate this Compact upon two weeks' prior written notice to the Tribe. Termination of this Compact pursuant to this Section 3.02(b) shall not be subject to the dispute resolution provisions of Article VII.
- (c) In the event that the State is no longer subject to, or elects to withdraw from or cease performing under, the MSA and the Secondary Settlement Agreement, the Tribe and the State may jointly agree in writing to terminate this Compact prior to the expiration of the then-current term. If there is any modification to relevant State law or final

judicial determination by a court of competent jurisdiction that negates the escrow deposit obligations pursuant to the Escrow Statutes, the State may terminate this Compact at any time thereafter by providing thirty days' written notice to the Tribe.

- (d) In the event a federal Court of last appeal makes a final determination that the 1862 Treaty did not diminish the reservation boundaries as set forth in the Treaty with the Kickapoo of May 15, 1854, (10 Stat. 1078), the Parties shall attempt to negotiate amendments to this Compact for a period of not less than sixty (60) days following Tribe's written notice to initiate such negotiations. If the Parties are unable to negotiate such amendments within such negotiation period, the Tribe may terminate this Compact upon two weeks' prior written notice to the State. Termination of the Compact pursuant to this Section 3.02(d) shall not be subject to the dispute resolution provisions of Article VII.

#### **ARTICLE IV MASTER SETTLEMENT AGREEMENT PROVISIONS**

##### **Section 4.01. Tribe Obligations.**

- (a) Tribe shall regulate all Sales of Cigarettes on Compact Lands and may regulate Sales of other Tobacco Products on Compact Lands. As part of such mandatory regulation of Sales of Cigarettes on Compact Lands, the Tribe shall require, and enforce such requirement, that:
- (i) all Sales to ultimate Consumers of Cigarettes on Compact Lands by a Licensed Retailer shall be conducted pursuant to a valid Tribal tobacco retailer license;
  - (ii) all Cigarettes Sold on Compact Lands by a Licensed Retailer shall be acquired from a Licensed Distributor;
  - (iii) each Licensed Retailer shall implement and maintain processes that verify receipt of all Cigarettes on Compact Lands substantiated and supported by contemporaneously created documentation, including but not limited to invoices, bills of lading, way bills and other documents, showing Cigarettes received by such Licensed Retailer by brand, quantity, date of receipt, and from whom such Licensed Retailer received such Cigarettes;
  - (iv) each Licensed Retailer shall implement and maintain processes that verify the number of Cigarettes Sold by such Licensed Retailer to Consumers on Compact Lands by contemporaneously created documentation, including register tapes or other indicia of retail Sale generated at the point of Sale or, with respect to vending machine Sales, stocking reports, in each case showing Cigarettes Sold by brand and quantity;



- (v) each Licensed Retailer shall provide to the Tribal Tax Department, on a timely basis, reports, data, and documentation specified in clauses (iii) and (iv) above regarding retail sales of Cigarettes on Compact Lands in form and format sufficient to enable Tribe to comply with its obligations pursuant to Section 4(b) and Section 4(c), and shall maintain such documentation in an adequate and accessible retention system for a period of not less than three years;
- (vi) each brand of Cigarettes Sold, offered for Sale, possessed for Sale, or imported for Sale on Compact Lands by a Licensed Retailer shall be a brand of an Approved Manufacturer and, subject to Section 4.01(e), shall bear indicia of excise tax payment as provided in Section 5.02;
- (vii) each Licensed Distributor shall apply indicia of excise tax payment as provided in Section 5.02 to each Pack of Cigarettes prior to delivery to a Licensed Retailer located on Compact Lands;
- (viii) each Licensed Distributor shall implement and maintain processes that verify delivery of all Cigarettes to Licensed Retailers on Compact Lands substantiated and supported by contemporaneously created documentation, including but not limited to invoices, bills of lading, way bills and other documents, showing Cigarettes delivered by brand, quantity, date of receipt, and to which Licensed Retailer such Cigarettes were delivered;
- (ix) each Licensed Distributor shall implement and maintain processes that, on a monthly basis, verify the number of items of indicia of payment of excise tax purchased from the Tribal Tax Department, as documented by a contemporaneously created, written receipt received from the Tribal Tax Department, the number of such items of indicia received by such Licensed Distributor, if different than the number purchased, the number of such items of indicia affixed to Packs of Cigarettes by such Licensed Distributor, the number of Packs of Cigarettes bearing such indicia delivered to Licensed Retailers as documented by one or more contemporaneously created, written statements from such Licensed Distributor, the number of such items of indicia that may be damaged, torn, mutilated or otherwise unusable and returned to the Tribal Tax Department, documented by a contemporaneously created, written receipt received from the Tribal Tax Department, the number of such items of indicia which are destroyed in accordance with Tribal Tax Department regulations, and the number of unaffixed items of such

indicia which are on hand at such Licensed Distributor's premises, as documented by contemporaneously created, written inventory sheets;

- (x) each Licensed Distributor shall implement and maintain processes that verify monthly beginning and ending inventories of Packs of Cigarettes bearing indicia of payment of excise tax described in Section 5.02(a), as documented by contemporaneously created, written inventory sheets showing adjustments during such month for number of Packs of Cigarettes (A) to which such indicia were affixed, (B) received with such indicia affixed, (C) returned from Licensed Retailers, and (D) Sold to Licensed Retailers;
- (xi) with respect to each Licensed Distributor that maintains premises on Compact Lands, such Licensed Distributor shall implement and maintain processes that verify monthly beginning and ending inventories of Packs of Cigarettes not bearing any indicia of payment of excise tax, as documented by contemporaneously created, written inventory sheets showing adjustments during such month for number of Packs of Cigarettes (A) received without bearing any indicia of payment of excise tax, (B) to which indicia of payment of excise tax are affixed, in the aggregate and by specific jurisdiction, (C) Sold to the United States government, and (D) returned to a Tobacco Product Manufacturer;
- (xii) each Licensed Distributor shall provide to the Tribal Tax Department, on a timely basis, reports, data, and documentation specified in clauses (viii), (ix), (x), and (xi) above regarding retail Sales of Cigarettes on Compact Lands in form and format sufficient to enable Tribe to comply with its obligations pursuant to Section 4.01(b) and Section 4.01(c), and shall maintain such documentation in an adequate and accessible retention system for a period of not less than three years.

The Parties agree that United States generally accepted accounting principles (GAAP) shall, to the extent applicable, provide the appropriate standard for measuring the adequacy of the processes required by this Section 4.01.

- (b) Tribe, through its Tribal Tax Department, shall collect from Licensed Retailers the documentation specified in clause (v) of Section 4.01(a), shall collect from Licensed Distributors the documentation specified in clause (xii) of Section 4.01(a), and shall retain all such documentation for a period of not less than three years.
- (c) Tribe, through its Tribal Tax Department at Tribe's sole expense, shall prepare and remit to KDOR data regarding Sales of Cigarettes on

Compact Lands in the form and format and on the dates reasonably requested by KDOR from time to time and approved by the Tribal Tax Department, such approval not to be unreasonably withheld. Such data shall be prepared based upon the documentation gathered by the Tribal Tax Department pursuant to Section 4.01(b). Such data shall be remitted at the same frequency as comparable data is required to be submitted to the State under applicable State law by State-licensed retailers or distributors of Cigarettes.

- (d) Tribe, through its Tribal Tax Department, shall implement and maintain processes that verify the number of items of indicia of payment of excise tax delivered to the Tribe pursuant to Section 5.02, as documented by a contemporaneously created, written receipt received from the State, the number of such items of indicia applied to Cigarettes delivered to Licensed Retailers as documented by one or more contemporaneously created, written statements from each Licensed Distributor, the number of such items of indicia that may be damaged, torn, mutilated or otherwise unusable and returned to the State, documented by a contemporaneously created, written receipt received from the State, the number of such items of indicia on hand from time to time at the Tribal Tax Department and each Licensed Distributor documented on contemporaneously created, written inventory sheets. Tribe, through its Tribal Tax Department, shall retain all such documentation for a period of not less than three years.
- (e) On the Effective Date, the Tribal Tax Department shall seize as contraband all Cigarettes held for Sale by Licensed Retailers which do not satisfy the requirements of Section 4.01(a)(vi). Such contraband Cigarettes shall be destroyed subject to oversight by the Tribal Tax Department and KSAG. Notwithstanding any provision of this Compact to the contrary, all Packs of Cigarettes in the inventory of a Licensed Retailer on the Effective Date which bear either a Tribal excise tax stamp or a State excise tax stamp shall be deemed to bear indicia of excise tax payment as provided in Section 5.02 for all purposes of this Compact.

**Section 4.02. State Obligations.**

- (a) The State agrees to reimburse the Tribe for the economic cost incurred by the Tribe in assisting the State in its ongoing diligent enforcement efforts under the MSA and Secondary Settlement Agreement. Reimbursement shall be as follows:
  - (i) \$50,000.00 to be received by the Tribe on or before the end of each calendar quarter (March 31, June 30, September 30 and December 31) during the initial ten (10) year term of this Compact.

- (ii) In the event this Compact continues for additional ten (10) year terms, the quarterly payment amount shall be increased fifteen percent (15%) over the quarterly payment amount payable during the immediately prior ten (10) year period.
- (b) As provided by Section VII of the Memorandum of Understanding for Voluntary Compliance for Cigarette Sales and Reporting (the “MOU”), entered into between the Tribe and the State, with an effective date of July 28, 2016, for its full compliance with the terms of such MOU, the State agrees to a one-time payment to the Tribe in the amount of \$50,000 to be paid on July 1, 2017.
- (c) As additional consideration to reimburse the Tribe for the economic cost incurred by the Tribe in assisting the State in its ongoing diligent enforcement efforts under the MSA and the 2003 NPM adjustment settlement agreement, including the 2012 term sheet agreement, the following shall be exempt from tax imposed by the Kansas Retailers’ Sales Tax Act, K.S.A. 79-3601 *et seq.* and amendments thereto: all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the Kickapoo Tribe in Kansas, a federally recognized Indian Tribe, and used exclusively for Tribal purposes.

## ARTICLE V TAX PROVISIONS

### **Section 5.01. Exercise of Tax Jurisdiction.**

- (a) The Tribe shall have the sole right to impose, collect, and retain Sales taxes and excise taxes on transactions conducted by Licensed Retailers and Licensed Distributors involving Cigarettes and other Tobacco Products ultimately Sold to Consumers by Licensed Retailers on Compact Lands. Further, the Tribe shall have the sole obligation hereunder to impose Sales taxes and excise taxes on such transactions to the extent described herein. With respect to such Cigarettes or other Tobacco Products, the State shall not impose any Sales tax, excise tax, privilege tax, use tax, other tax, licensing fee, user fee or other fee at any point in the stream of commerce:
  - (i) where the legal incidence of any such tax or fee falls on any such Consumer; or
  - (ii) which, if passed through in whole or in part to any such Licensed Retailer or Licensed Distributor, would have the effect of increasing such Licensed Retailer’s or Licensed Distributor’s cost of goods Sold;

*provided, however,* for the avoidance of doubt, such restrictions shall not apply to escrow payments, directory fees, or any bond required under the Escrow Statutes with respect to such Cigarettes. The State shall take no affirmative action to enable or authorize any other in-

- dividual or entity to take any action which, if taken directly by the State, would violate this Section 5.01(a).
- (b) Notwithstanding any provision of Section 5.01(c) to the contrary, the Tribe shall levy upon the consensual Sale of Cigarettes by a Licensed Retailer to a Consumer on Compact Lands a tax computed as a percentage of the actual Sales price thereof exclusive of any rebates. For purposes of the preceding sentence, such Sales tax shall be levied at a rate no lower than the lowest of (i) five percent (5%), or (ii) the Kansas Sales tax rate in effect at the time of such Sale less 1.5%; *provided, however*, that the fixed amount computed pursuant to this Section 5.01(b) shall not be less than \$0.00. Nothing in this Compact shall prohibit the Tribe, in its sole discretion, from levying Sales tax on such Sales at a rate higher than that required in the preceding sentence.
- (c) Subject to Section 5.01(d), the Tribe shall levy upon the consensual Sale of Cigarettes on Compact Lands an excise tax computed from time to time as a fixed amount per Carton of Cigarettes or fractional part thereof. For purposes of the preceding sentence, such fixed amount per Carton of Cigarettes shall be no lower than the lowest of (i) the lowest excise tax rate per Carton of Cigarettes levied or imposed at the time of computation pursuant to the laws of any of the states immediately bordering the State; (ii) the excise tax rate per Carton of Cigarettes levied or imposed at the time of computation pursuant to the laws of the State less \$11.20 per Carton of Cigarettes; or (iii) the lowest aggregate excise tax rate per Carton of Cigarettes levied or imposed at the time of computation by any Indian Tribe which is party to a Cigarette/Tobacco Product compact with the State; *provided, however*, that the fixed amount computed pursuant to this Section 5.01(c) shall not be less than \$0.01 per Carton. Nothing in this Compact shall prohibit the Tribe, at its sole discretion, from levying excise tax on such Cigarettes in an amount higher than that required in the preceding sentence. Such excise tax shall be paid only once and shall be imposed on and paid by the Licensed Distributor which Sells Cigarettes to a Licensed Retailer for Sale to Consumers on Compact Lands. For the avoidance of doubt, the Tribe shall not be required to levy such excise tax on any Sale of Cigarettes where the Licensed Distributor intends to Sell such Cigarettes outside Compact Lands.
- (d) Notwithstanding any other provision of this Compact to the contrary, the Tribe shall levy upon the consensual Sale of roll-your-own tobacco on Compact Lands an excise tax of not less than 1% of the wholesale Sale price of such roll-your-own tobacco. Such excise tax shall be paid only once and shall be imposed on and paid by the Licensed Distributor at the time that the Licensed Distributor (a) brings or causes to

be brought onto Compact Lands such roll-your-own tobacco for Sale on Compact Lands, (b) makes, manufactures, or fabricates such roll-your-own tobacco on Compact Lands for Sale on Compact Lands, or (c) ships or transports such roll-your-own tobacco to any Licensed Retailer on Compact Lands to be Sold by such Licensed Retailer on Compact Lands. For the avoidance of doubt, the Tribe shall not be required to levy such excise tax on any sale of roll-your-own tobacco where the Licensed Distributor intends to Sell such roll-your-own tobacco outside Compact Lands.

**Section 5.02. Indicia of Tax; Distribution and Transport.**

- (a) The Tribal Tax Department and KDOR shall jointly design and designate indicia of payment of the excise tax levied pursuant to Section 5.01(c). Such indicia shall include at a minimum the acronym “KTIK” the word “Kansas,” and an inventory control number, code or other technology in a form and color mutually agreeable to the Tribe and KDOR. The State shall produce, or cause to be produced, and deliver to the Tribe all such indicia as may be required for Tribe to comply with its obligations hereunder, including but not limited to Tribe’s obligations pursuant to Section 4.01(a)(vi). The State shall cause said stamps to be produced and the cost split equally with the Tribe. (b) For purposes of this Compact, the Parties agree that the following shall constitute contraband:
- (i) All Packs of Cigarettes, in quantities of 20 Cigarettes per Pack or more, not bearing indicia of payment of excise tax as required in this Compact and all devices for vending Cigarettes in which unstamped Packs are found;
  - (ii) All Cigarettes or Tobacco Products in the possession of a minor;
  - (iii) all property, other than vehicles, used in the retail Sale of Packs of Cigarettes described in clause (i);
  - (iv) any Cigarettes Sold, offered for Sale, or possessed for Sale on Compact Lands where such Cigarettes are not a brand of an Approved Manufacturer; and
  - (v) any Cigarettes to which tax indicia has been affixed, was caused to be affixed, or the tax paid thereon as required by Section 5.01(c) or (d) of this Compact, where such Cigarettes are not a brand of an Approved Manufacturer.
- (b) Notwithstanding any provision of this Compact to the contrary, any Pack of Cigarettes Sold by a Licensed Retailer, in the possession of a Licensed Retailer, or in transit to a Licensed Retailer with proper bills of lading from a Licensed Distributor in each case bearing the indicia of payment of excise tax described in Section 5.02(a) shall be deemed to be bearing indicia of payment of State excise tax for all purposes of State law and, in any event, shall be deemed not to be a

- common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction pursuant to State law or process on grounds of non-payment of any State tax.
- (c) Notwithstanding any provision of this Compact to the contrary, any Cigarette in the possession of a Licensed Distributor with premises on Compact Lands or which are in transit, with proper bills of lading showing shipment from the relevant Tobacco Product Manufacturer or its importer to a Licensed Distributor with premises on Compact Lands, but in either case not bearing indicia of payment of excise tax pursuant to Section 5.02(a), or for which tax has not been paid pursuant to Section 5.01(d), shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction pursuant to State law or process, in each case on grounds of non-payment of State excise tax, if the related Tobacco Product Manufacturer is an Approved Manufacturer.
  - (d) Any Tobacco Product, other than Cigarettes, which is in the possession of a Licensed Distributor with premises on Compact Lands or is in transit, with proper bills of lading showing shipment from the relevant manufacturer or its importer to a Licensed Distributor with premises on Compact Lands, but in either case not bearing indicia of payment of excise tax pursuant to Section 5.02(a), or for which tax has not been paid pursuant to Section 5.01(d), shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction pursuant to State law or process, in each case on grounds of non-payment of any State tax.
  - (e) Any Tobacco Product, other than Cigarettes described in Section 5.02(c), in the possession of a Consumer which a Consumer can demonstrate was purchased from a Licensed Retailer, shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction pursuant to State law or process on grounds of non-payment of any State tax.
  - (f) In the event KSAG or KDOR has actual knowledge that any Pack of Cigarettes described in Section 5.02(c) or (d) or any Tobacco Product described in Section 5.02(e) is seized or confiscated under color of State law or process as in effect from time to time, then KSAG or KDOR, as applicable, shall transmit written notice of such seizure or confiscation to the Tribe within two Business Days of first acquiring such actual knowledge.
  - (g) Notwithstanding any provision of this Compact to the contrary, the possession, gift, or use on Qualified Tribe Lands of noncommercial privately produced tobacco for religious or ceremonial use shall be

exempt from taxation by State and may be exempt from taxation by Tribe. Such tobacco shall be deemed not to be a common nuisance or contraband pursuant to State law and not subject to seizure, forfeiture, confiscation or destruction as a common nuisance or contraband pursuant to State law or process, in each case on grounds of non-payment of any State tax. For purposes of this Section 5.02(h), “tobacco” shall mean any plant, including parts or products thereof, within the genus *Nicotiana* and which does not constitute a “controlled substance” within the meaning of 21 U.S.C. § 802(6).

- (h) For purposes of this Section 5.02 only, references to “State law” mean K.S.A. § 79-3323 and the Escrow Statutes as each may be amended from time to time.

## ARTICLE VI AUDITS AND INSPECTIONS

**Section 6.01. Purpose.** The purpose of this Article VI is to provide a process for regular verification of the requirements of this Compact. The verification process is intended to reconcile data from all sources that make up the stamping, Selling, and taxing activities under this Compact.

**Section 6.02. Tribe to Contract with Third Party Auditor.** The Tribe and the State agree that, for purposes of verifying compliance with this Compact, the Tribe will contract with and retain an independent third party auditor (the “**Auditor**”). The Tribe and the State shall each bear fifty percent (50%) of the costs of the auditing services. The Tribe and the State shall be entitled to freely communicate with the Auditor; *provided, however*, that all information provided to the State by Auditor shall be provided directly to KDOR. The Tribe shall select the Auditor, subject to the approval of the KSAG; *provided, further*, that such approval shall not be unreasonably withheld; *provided, further*, that the Tribe’s selection of any Auditor possessing a valid Kansas Permit to Practice issued by the Kansas Board of Accountancy shall be deemed approved by the KSAG. The Auditor will review records on an annual calendar year basis to issue an annual report and certification as provided in this Article VI.

**Section 6.03. Audit Protocol.** To verify compliance with this Compact, the Auditor must adhere to the following protocol:

- (a) **Period Under Review.** The Auditor must review records for the calendar year under audit and may review records for earlier years that are after the Effective Date but only as necessary for an internal reconciliation of the relevant books. Subject to the foregoing, records relating to any period before the Effective Date are not open to review. In situations where the Auditor is responsible for verifying records on less than an annual basis, the period under review shall not include years previously reviewed by the Auditor, except when a vi-



olation is alleged to have occurred during the period previously reviewed.

- (b) Records to be Examined. The Auditor must review Tribal Tax Department books and records for records and invoices of stamp purchases, records and invoice of Sales of stamped Cigarettes, stamp inventory, the stamping process, products Sold, product inventory records, and such additional records as are necessary to verify (1) the Units Sold, (2) the retail Selling price, including application of Tribal Sales and excise taxes, and (3) procedures demonstrating Tribe's compliance with Sections 4.01 and 5.01 of this Compact, all with respect to Sales of Cigarettes by Licensed Retailers on Compact Lands. In all situations, the Auditor is not responsible for examining, and shall not examine, records that do not relate to the stamping, Selling, or taxing activities of the Tribe, any Tribal Affiliate, or Tribe's licensees, unless a review of the records is necessary to an internal reconciliation of the books of the Tribe, any such Tribal Affiliate or any such licensee.
- (c) Audit Standard. Each audit performed pursuant to this Article VI shall be performed in accordance with generally accepted auditing standards.

**Section 6.04. Audit Report and Certification.** After each annual audit, the Auditor shall issue to KDOR and the Tribe an audit report and a certification, as further described below, with respect to compliance with this Compact. The annual audit report shall set forth the total Units Sold attributable to each Tobacco Product Manufacturer by Licensed Retailers on Compact Lands during the relevant period. The annual audit report shall also include a certified statement of the Auditor to the KDOR that the Auditor finds the Tribe to be in compliance with Sections 4.01 and 5.01 of this Compact or else that the Tribe is in compliance except for specifically listed items that are explained in the annual report.

**Section 6.05. Audit Schedule.** Audit reviews shall take place following each calendar year (or portion thereof) during the term of this Compact, with an audit report submitted no later than April 1 following such calendar year.

**Section 6.06. Joint Audit Implementation and Review.** The Tribe and the State shall meet jointly with the Auditor prior to the beginning of each annual audit. The purpose of such meeting will be to discuss the objectives of the upcoming audit, the expectations of the Tribe and of the State, the standards to be used in such audit, and any issues regarding conduct of the audit, records pertinent to the audit or the contents of the Auditor's report. Subsequent meetings before and during the audit may be held as required. As soon as practicable after the issuance of the Auditor's report and certification, the Tribe and the State may meet jointly

with the Auditor as often as required to review the audit report and discuss any issue of concern. In the event that either the Tribe or the State disagrees with the Auditor's report or certification, or any audit finding contained therein, either Party may notify the other of the disagreement and follow the procedures for resolution of the disagreement in Article VII of this Compact.

**Section 6.07. Inspections.**

- (a) The Parties agree that, subject to the requirements and limitations of this Section 6.07, agents or employees of the Tribal Tax Department and agents or employees of KSAG and/or KDOR will conduct joint inspections of Licensed Retailers and Licensed Distributors located on Compact Lands. In connection with any such joint inspection, the Tribe shall permit such agents or employees of the Tribe and agents or employees of KSAG and/or KDOR to review all documentation collected and maintained by the Tribal Tax Department pursuant to Section 4.01(b) and Section 4.01(d).

The agents or employees of the Tribe and agents or employees of KSAG and/or KDOR shall agree to a random sampling methodology for each joint inspection based on generally recognized valid and reliable sampling techniques. The Parties further agree such joint inspections shall not involve complete audits or complete inventories but shall be limited to random sample inspections of stock, tax indicia, and documentation on hand at the premises of a Licensed Retailer or Licensed Distributor, as applicable, for the purposes of verifying that all Cigarettes offered or intended for Sale by any Licensed Retailer on Compact Lands (i) are solely brands of Approved Manufacturers, (ii) were acquired from a Licensed Distributor, and (iii) bear indicia of payment of excise tax to the extent required in Section 5.02. In any event, such joint inspections shall not be disruptive of the business operations of any Licensed Retailer or Licensed Distributor.

- (b) The State reserves the right hereunder to initiate and participate in up to twelve joint inspections described in Section 6.07(a) per calendar year, with a limit of up to two (2) such joint inspection per calendar month; *provided, however*, that joint inspections of any one or more separate premises on the same Business Day shall only constitute one "joint inspection" for purposes of the preceding limitations; *provided, further*, that if the State and Tribe inspection team notes any violations of this Compact by one or more Licensed Retailers or Licensed Distributors during any such joint inspection, the State may initiate, by giving notice in accordance with Section 6.07(c), one follow-up joint inspection with the Tribe of all premises involved in such violations on a subsequent Business Day following the earlier of notice of completed cure or conclusion of any cure period pursuant to Section 7.01(a) related to such violations, with such follow-up joint

inspection not counting against the monthly or annual limits set forth in this sentence.

- (c) The Tribe shall make its personnel available for joint inspections permitted hereunder on a Business Day between the hours of 9:00 a.m. and 4:30 p.m. upon prior email notice to the Tribe transmitted by a representative of the State by 10:00 a.m. one Business Day prior to the requested inspection. State representatives and Tribal representatives shall coordinate the details of the joint inspection by 3:00 p.m. on the day of such email notice. Any email notice provided to the Tribal Tax Department pursuant to the Section 6.07 shall be given to the Tribal Chairman at [tax.department@ktik-nsn.gov](mailto:tax.department@ktik-nsn.gov) or by written notice.
- (d) Any Packs of Cigarettes found for Sale at a Licensed Retailer during a permitted joint inspection that are not brands of an Approved Manufacturer or that do not bear indicia of payment of excise tax as required in Section 5.02 shall be removed by the Tribal Tax Department until the matter is resolved.
- (e) This Section 6.07 does not limit the Tribe from unilateral enforcement of its laws and regulations and does not authorize the State to unilaterally conduct inspections of Licensed Retailers or Licensed Distributors on Compact Lands; *provided, however*, that the State may conduct test purchases from Licensed Retailers located on Compact Lands and may conduct unobtrusive observation of those portions of Licensed Retailer and Licensed Distributor premises located on Compact Lands which are open to the general public.

## ARTICLE VII DISPUTE RESOLUTION

### Section 7.01. General.

- (a) In the event Tribe is in default of its obligations pursuant to Section 4.01, Article V or Article VI of this Compact, Tribe shall cure such default within thirty days following receipt of written notice of such default from the State. The Tribe or its representatives shall promptly provide written notice of completion of such cure to State. In the event Tribe does not cure such default, the State may initiate dispute resolution procedures in accordance with the remainder of Article VII of this Compact.
- (b) For purposes of this Article VII, each of the State and the Tribe may be referred to as a “**Dispute Party.**” Each Dispute Party warrants that it will use its best efforts to negotiate an amicable resolution of any and all disagreements, controversies or claims between any or all Tribal Claim Parties and the State (each, a “**Dispute**”) arising out of or in connection with this Compact (including without limitation claims relating to the validity, construction, performance, breach and/

or termination of this Compact). Negotiation pursuant to this Section 7.01(b) shall be commenced by one Dispute Party providing written notice to the other Dispute Party of the existence of a Dispute. The written notice shall provide a concise summary of the nature of the Dispute. Promptly following delivery of any such written notice, and in no event later than thirty (30) days following such delivery, the Governor of the State of Kansas and the Tribe's Chairperson, or their respective designees, shall commence good faith negotiations to resolve such Dispute(s). If the Dispute Parties are unable to negotiate an amicable resolution of any such Dispute within thirty (30) days following such commencement of good faith negotiations or such longer time period as the Dispute Parties may mutually agree in writing, either Dispute Party may submit the matter to arbitration for final resolution. Notwithstanding the foregoing or any other provision of this Compact to the contrary, either Dispute Party may immediately commence arbitration proceedings for the purpose of seeking emergency relief pursuant to the Rules addressing "Emergency Measures of Protection."

#### **Section 7.02. Arbitration.**

- (a) *Initiation; Selection of Panel.* Subject to the requirements of Section 7.01, arbitration may be initiated by either Dispute Party by serving written notice to the other Dispute Party and by complying with the requirements of the Rules. Within seven days following initiation of the arbitration proceedings, each Dispute Party shall notify the other Dispute Party and the AAA of its disinterested and independent nominee for an arbitrator. If the Dispute Parties agree upon the nomination of a single arbitrator for the Dispute within ten days following initiation of arbitration, such nominee shall serve as sole arbitrator of the Dispute. If the Dispute Parties do not agree to a single arbitrator, the arbitration panel shall consist of three disinterested and independent arbitrators. In that event, the two arbitrators nominated by the Dispute Parties shall nominate the third disinterested and independent arbitrator to serve with them. In the event the two arbitrators fail for any reason to name the third arbitrator within seven days, the AAA shall name the third arbitrator. In any event, such third arbitrator shall serve as chairperson of the arbitration panel. Notwithstanding the foregoing, the Rules shall govern the selection and number of arbitrators for any Dispute governed by the Emergency Measures of Protection or Expedited Procedures provisions of the Rules, or both.
- (b) *Rules; Federal Question; Choice of Law.* Except as the Dispute Parties may subsequently agree otherwise in writing, the arbitration shall be conducted and enforced in accordance with the Commercial Arbitration Rules and Mediation Procedures (the "**Rules**") of the ("**AAA**"), as such Rules may be modified by this Compact, the Fed-

eral Arbitration Act, and to the extent not preempted by the Federal Arbitration Act, the Kansas Uniform Arbitration Act. The Parties agree and acknowledge that judicial resolution and enforcement of any Dispute or a settlement or arbitration decision issued hereunder with respect thereto, involves questions of federal law. The law governing any Dispute shall be limited to applicable federal law, the common law of the United States, and Kansas law, in that order and without reference to internal conflicts of laws principles.

- (c) *Proceedings.* Any arbitration shall be conducted at a place designated by the arbitration panel in Topeka, Kansas or any other location as the Dispute Parties may mutually agree in writing. Except for proceedings governed by the Rules on “Emergency Measures of Protection” or by the “Expedited Procedures” contemplated by the Rules, if applicable, the arbitration panel shall commence proceedings within 30 days of appointment of the final arbitrator, and hold proceedings providing each Dispute Party a fair opportunity to present its side of the Dispute, together with any documents or other evidence relevant to resolution of the Dispute. The arbitration decision shall be final and binding upon the Parties unless, during or following completion of the arbitration proceedings, the Dispute Parties have met and arrived at a different settlement of the Dispute. The arbitrators shall have the power to grant equitable or injunctive relief and specific performance of this Compact. The arbitrators shall not have the power to award monetary relief, including damages, penalties, or costs and expenses, including attorneys’ fees, to the extent not otherwise expressly permitted by the terms of this Compact. The Parties and the arbitrators shall maintain strict confidentiality with respect to the arbitration.
- (d) *Expenses.* The reasonable expenses of Dispute resolution shall be paid equally by the Dispute Parties, who shall also pay their own expenses; *provided, however*, that any Dispute Party who (1) fails or refuses to submit to arbitration following a proper demand by any other Dispute Party, or (2) fails or refuses to voluntarily comply with the terms of any settlement or arbitration decision issued hereunder, shall bear all costs and expenses, including reasonable attorneys’ fees, incurred by such other Dispute Party in compelling arbitration of any Dispute or enforcing any settlement or arbitration decision.
- (e) *Enforcement.* If enforcement of a settlement or arbitration decision becomes necessary by reason of failure of one or more Parties to implement its terms voluntarily, or if one of the Dispute Parties refuses to participate in arbitration as provided in this Section 7.02 and the other Dispute Party seeks enforcement of any provision of this Compact, the Parties agree that, subject to the limited waivers of sovereign immunity contained herein, the matter may be resolved by

judicial resolution and enforcement and that venue for judicial resolution and enforcement shall be in the United States District Court for Kansas pursuant to the specific provisions of this Compact, in any other court of competent jurisdiction, and in any other court having appellate jurisdiction over any such court. In any such proceeding, service on any Dispute Party shall be effective if made by certified mail, return receipt requested to the address set forth in or otherwise designated pursuant to Section 8.06.

**Section 7.03. Limited Waivers by Tribe.** The Tribe hereby waives its sovereign immunity, its right to require exhaustion of tribal remedies, and its right to seek tribal remedies with respect to any Dispute, effective only if the Tribe fails to implement the terms of a settlement or arbitration decision voluntarily or refuses to participate in arbitration, and subject to the following specific limitations:

- (1) *Limitation of Claims.* The limited waiver granted pursuant to this Section 7.03 shall encompass (A) claims which seek monetary relief for direct damages attributable to Tribe's breach of this Compact and for costs and expenses, including reasonable attorneys' fees, to the limited extent provided in Section 7.02(d), (B) claims for equitable remedies, and (C) actions to compel Dispute resolution by arbitration or for enforcement of a settlement or arbitration decision as provided in this Article VII. Notwithstanding the foregoing or any other provision of this Compact to the contrary, such limited waiver shall in no event extend to or encompass claims which seek indirect, incidental, special, consequential, punitive, exemplary or reliance damages (including, without limitation, lost or anticipated revenues, lost business opportunities or lost Sales or profits, whether or not any Party has been advised of the likelihood of such damages) against Tribe or any Tribal Affiliate, and neither Tribe nor any Tribal Affiliate shall be liable for any such damages.
- (2) *Time Period.* The limited waiver granted pursuant to this Section 7.03 shall commence upon the Effective Date of this Compact and shall continue until the date of its termination or cancellation pursuant to the terms of this Compact, except that the limited waiver shall remain effective for any proceedings then pending or initiated within 180 days following termination of this Compact for breach, and all permitted appeals therefrom.
- (3) *Recipient of Waiver.* The limited waiver granted pursuant to this Section 7.03 is granted to and for the sole benefit of the State, and may not be assigned or granted to any other individual or entity.
- (4) *No Revocation.* The Tribe agrees not to revoke its limited waiver of sovereign immunity contained in this Section 7.03. In the event of

any such revocation, the State may, at its option, declare this Compact terminated for breach by the Tribe.

- (5) *Limitation Upon Damages.* Any monetary award or awards against the Tribe shall be limited, in the aggregate, to an amount equal to total tax revenues and gross profits actually received by the Tribe or Tribal Affiliates attributable to the Sale of Cigarettes during the term of this Compact.
- (6) *Credit of the Tribe and Tribal Affiliates.* Except as otherwise expressly provided in this Section 7.03, the limited waiver granted pursuant to this Section 7.03 shall not implicate or in any way involve the credit of the Tribe or any Tribal Affiliate.

**Section 7.04. Limited Waiver by State.** The State hereby waives its sovereign immunity, effective only if the State fails to implement the terms of a settlement or arbitration decision voluntarily or refuses to participate in arbitration pursuant to this Compact, subject to the following specific limitations:

- (1) *Limitation of Claims.* The limited waiver granted pursuant to this Section 7.04 shall encompass (A) claims which seek monetary relief for direct damages attributable to State's breach of this Compact and for costs and expenses, including reasonable attorneys' fees, to the limited extent provided in Section 7.02(d), (B) claims for equitable remedies, and (C) actions to compel Dispute resolution by arbitration or for enforcement of a settlement or arbitration decision as provided in this Article VII. Notwithstanding the foregoing or any other provision of this Compact to the contrary, such limited waiver shall in no event extend to or encompass claims which seek indirect, incidental, special, consequential, punitive, exemplary or reliance damages (including, without limitation, lost or anticipated revenues, lost business opportunities or lost Sales or profits, whether or not any Party has been advised of the likelihood of such damages) against the State, and the State shall not be liable for any such damages.
- (2) *Time Period.* The limited waiver granted pursuant to this Section 7.04 shall commence upon the Effective Date of this Compact and shall continue until the later of the date of its termination or cancellation pursuant to the terms of this Compact or the date on which the State has no surviving obligations pursuant to Section 8.02 and no surviving payment obligations pursuant to Section 4.02(a), except that the limited waiver shall remain effective for any proceedings pending on such date or initiated within 180 days following termination of this Compact for breach, and all permitted appeals therefrom.
- (3) *Recipient of Waiver.* The limited waiver granted pursuant to this Section 7.04 is granted to and for the sole benefit of the Tribe (for itself

and the other Tribal Claim Parties), and may not be assigned or granted to any other individual or entity.

- (4) *No Revocation.* The State agrees not to revoke its limited waiver of sovereign immunity contained in this Section 7.04. In the event of any such revocation, the Tribe may, at its option, declare this Compact terminated for breach by the State.
- (5) *Limitation Upon Damages.* Any monetary award or awards against the State shall be limited, in the aggregate, to an amount equal to total tax revenues and gross profits actually received by the Tribe or Tribal Affiliates attributable to the Sale of Cigarettes during the term of this Compact.

## ARTICLE VIII MISCELLANEOUS

### **Section 8.01. Other Compacts.**

- (a) During the Term of this Compact, State may enter into and be party to one or more compacts or other agreements regarding possession, transport, distribution, or Sale of Cigarettes or other Tobacco Products, including but not limited to taxation and escrow collection, with the Iowa Tribe of Kansas and Nebraska, the Prairie Band Potawatomi Nation, or the Sac and Fox Nation of Missouri in Kansas and Nebraska.
- (b) State shall not enter into or be party to any such compact or agreement with any Indian Tribe during the Term of this Compact, except as otherwise provided in Section 8.01(a).

**Section 8.02. Confidentiality.** All information provided hereunder to the State shall be provided directly to KDOR and shall be treated as confidential pursuant to K.S.A. 2015 Supp. Sections 50-6a11(e), 50-6a11(f), and 75-5133; *provided, however*, that the State is permitted to provide or share such information pursuant to K.S.A. 2015 Supp. Sections 50-6a11(a) or 75-5133(b)(19).

**Section 8.03. No Concessions.** By entering into this Compact, the Parties acknowledge and agree that, except as expressly provided herein, the Tribe does not concede that: (a) the laws of the State, including any taxation or civil regulatory laws, apply to the Tribe, its members or any Tribe Affiliate regarding activities and conduct on Qualified Tribe Lands or otherwise within the Tribe's jurisdiction; or (b) the Qualified Tribe Lands are located in or within the State or are otherwise part of the State. By entering into this Compact, the Parties acknowledge and agree that, except as expressly provided herein, the State does not concede that its interests, jurisdiction or sovereignty, as authorized, permitted or recognized by federal law, is diminished, limited or preempted in any manner.



**Section 8.04. Most-Favored Nation.** The State agrees that Tribe may propose an amendment to this Compact by written notice to the State based upon any provision of a compact permitted by Section 8.01 which Tribe desires to include as a provision in this Compact. If the State Legislature does not approve such proposed amendment at the legislative session next following the Tribe's request for such amendment, Tribe may terminate this Compact at any time thereafter by providing thirty days' written notice to State.

**Section 8.05. Construction.**

- (a) Each Party has received independent legal advice from its attorney(s) of choice and neither Party shall be deemed the author or drafter of this Compact. Therefore, any rule or canon of construction (whether pertaining to contracts, statutes, treaties or otherwise) that, in the case of an ambiguity, such ambiguity is construed against the author or drafter is not applicable. The language of all parts of this Compact shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties. It is the intent of the Parties that this Compact shall be construed to reflect that the Parties are of equal stature and dignity and have dealt with each other at arm's-length. Accordingly, any statutory or judicial rules or canon concerning the construction of vague or ambiguous terms (whether pertaining to contracts, statutes, treaties or otherwise) that might otherwise be used in the interpretation or enforcement of this Compact, including construction of ambiguities either in favor of or against a state or Indian Tribe, is not applicable to this Compact and shall not obtain to the benefit or detriment of any Party, nor shall the terms and conditions of this Compact be extended by implication to the benefit or detriment of any Party, it being the intent of the Parties that the construction of this Compact shall be controlled by its express terms and not by implication.
- (b) The Article, Section and other headings (b) contained in this Compact are for reference purposes only and shall not affect the meaning or interpretation of this Compact.

**Section 8.06. Notice.** Except as otherwise expressly provided in Section 6.07(c), any notices or communications required or permitted to be given hereunder shall be in writing and shall be sent by manual delivery, overnight courier or United States certified mail (postage prepaid and return receipt requested) addressed to the respective Party at the address specified below, or at such other address as such Party shall have specified to the other Parties hereto in writing.

If to the Nation:

Chairperson and Tribal Council  
Kickapoo Tribe in Kansas  
1107 Goldfinch Rd.  
Horton, KS 66439

If to the State:

Office of the Governor  
300 SW 10<sup>th</sup> Ave., Ste. 241S  
Topeka, KS 66612-1590

with copies to:

Office of the Kansas Attorney General  
120 SW 10<sup>th</sup> Ave., 2nd Floor  
Topeka, KS 66612-1597

and

Secretary of Revenue  
915 SW Harrison Street, Second Floor  
Topeka, KS. 66612-1588

All periods of notice shall be measured from, and such notices or communications shall be deemed to have been given and received on, the date of delivery as evidenced by the signed receipt of such notice or communication by the addressee or its authorized representative.

**Section 8.07. Limited Purpose.** Nothing in this Compact shall be deemed to authorize the State to regulate or tax the Tribe, its members, or any Tribal Affiliate or to interfere with the Tribe's government or internal affairs. This Compact shall not alter, limit, diminish or preempt Tribal, federal or State sovereignty, authority, civil adjudicatory jurisdiction or criminal jurisdiction, except as expressly provided herein. Subject to Section 2.03 and the provisions of this Compact regarding Approved Manufacturers, nothing in this Compact shall require that the Tribe, any Tribal Affiliate, or any Licensed Retailer or Licensed Distributor obtain or maintain any license from, or otherwise submit to the jurisdiction of, the State. Nothing in this Compact shall constitute a stipulation by any party as to the actual boundaries of Tribe's federally-established reservation.

**Section 8.08. Entire Agreement; Amendments.** This Compact constitutes the entire understanding between the Parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between or among the Parties, with respect to the subject matter hereof. Subject to Section 8.04, this Compact can only be amended or modified with the same formality required to make the original Compact valid and enforceable.

**Section 8.09. No Assignment; Beneficiaries.** This Compact is personal in nature, and no Party may directly or indirectly assign or transfer it by operation of law or otherwise. Nothing in this Compact, express or implied, is intended to or shall confer upon any individual or entity, other than the Parties hereto, any right, benefit or remedy of any nature whatsoever under or by reason of this Compact; *provided, however*, that subject to the terms and provisions of Article VII, each Tribal Claim Party (other than the Tribe) is an express third-party beneficiary of this Compact.

**Section 8.10. Survival.** Upon the termination or cancellation of this Compact, the obligations of the parties hereunder shall terminate, except that the provisions of Sections 7.01, 7.02, 7.03, 7.04, and 8.02 shall survive such termination or cancellation and the State’s payment obligations pursuant to Section 4.02(a) shall survive such termination or cancellation only until satisfaction of such obligations.

**Section 8.11. Severability.** The terms, provisions, agreements, covenants and restrictions of this Compact are non-severable and, unless otherwise agreed to by the Parties, this Compact shall terminate if any term, provision, agreement, covenant or restriction in this Compact is held by a court of competent jurisdiction or other authority to be invalid, void, or otherwise unenforceable. In the event either Party has actual knowledge that the validity or enforceability of this Compact or any of its terms, provisions, agreements, covenants or restrictions are being challenged in a court of competent jurisdiction or other authority, such Party shall transmit written notice thereof to the other Party within three Business Days of acquiring such actual knowledge. The Parties agree to reasonably cooperate with each other and oppose any such challenge.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Compact as of the respective dates indicated below.

**Kickapoo Tribe in Kansas**

**The State of Kansas**

By: Lester Randall, Chairperson

By: Sam Brownback, Governor

Date: December 1, 2016

Date: December 21, 2016



**COMPACT RELATING TO CIGARETTE SALES, TAXATION  
AND ESCROW COLLECTION**

**Between**

**The Sac And Fox Nation Of Missouri In Kansas And Nebraska  
and  
The State Of Kansas**

This Compact Relating to Cigarette Sales, Taxation and Escrow Collection (“Compact”) is entered into between the Sac And Fox Nation Of Missouri In Kansas And Nebraska (“Tribe”) and the State of Kansas (“State”) and its agencies. The Tribe and the State are collectively referred to as the “Parties.” The Parties agree as follows:

WHEREAS, the Tribe is a federally-recognized tribe with certain sovereign powers of self-government;

WHEREAS, the State is a state within the United States of America possessed of full powers of state government;

WHEREAS, the Tribe is situated on and occupies a federally-established Indian Reservation situated, in part, in the northeastern part of Kansas;

WHEREAS, federal law recognizes that tribal jurisdiction exists on Qualified Tribal Lands regarding the rights of an Indian Tribe to pass its own laws and be governed by them, including the right to levy taxes and regulate commerce;

WHEREAS, it is in the best interests of both the State and the Tribe to prevent disputes between the Parties regarding possession, transport, distribution, and Sale of Cigarettes and other Tobacco Products, including but not limited to taxation and escrow collection, in the State of Kansas, on Compact Lands;

WHEREAS, on November 23, 1998, the State became party to the MSA;

WHEREAS, certain Tobacco Product Manufacturers, which are party to the MSA, are obligated, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to State (tied in part to their volume of Sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking;

WHEREAS, it would be contrary to the policy of State if Tobacco Product Manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that State will have an eventual source of recovery from them if they are proven to have acted culpably;

WHEREAS, the State entered into a Secondary Settlement Agreement with certain participating Tobacco Product Manufacturers in 2012 settling State’s obligations under the MSA and disputes regarding certain

payment adjustments under the MSA with respect to NPMs (as that term is defined below) for calendar years 2003-2012;

WHEREAS, as part of said Secondary Settlement Agreement, State has agreed to undertake certain diligent enforcement efforts of its Cigarette and other Tobacco Product laws and more specifically, its MSA laws on Qualified Tribal Lands within the borders of State;

WHEREAS, the Parties are of the opinion that cooperation between the Tribe and the State is mutually productive and beneficial;

WHEREAS, the State and the Tribe agree that it will serve the interests of both the State and the Tribe for the Tribe to be able to generate revenue for governmental purposes through the collection of certain Tribal taxes in accordance with this Compact and resolve their differences regarding the collection of escrow on certain Cigarettes Sold on Compact Lands;

WHEREAS, the Tribe has the authority pursuant to Article V of its Constitution to enter into agreements with the State and to enter into agreements for the economic benefit of the Tribe.

NOW THEREFORE, the State, as signed by the Governor and approved by the Kansas Legislature, and the Tribe, as approved by the Tribe's Tribal Council hereby enter into this Compact for the mutual benefit of the State and the Tribe, to-wit:

#### DEFINITIONS

**“Business Day”** shall mean any day that the governmental offices of the Tribe and State are open for business.

**“Carton”** shall mean a container of two hundred (200) Cigarettes, whether consisting of either eight or ten Packs.

**“Cigarette”** shall mean any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use and consists of or contains:

- (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco;
- (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, Consumers as a Cigarette; or
- (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, Consumers as a Cigarette described in clause (1) above.

The term “Cigarette” includes “roll-your-own” (i.e., any tobacco which, because of its appearance, type, packaging or labeling is suitable

for use and likely to be offered to, or purchased by, Consumers as tobacco for making Cigarettes). For purposes of this definition, 0.09 ounces of “roll-your-own” tobacco shall constitute one individual “Cigarette.”

**“Compact”** shall mean this agreement;

**“Compact Lands”** shall mean:

- (1) Lands within the boundaries of the State of Kansas that are within the Tribe’s Reservation as established in the treaty between the United States of America and the Tribe dated March 6, 1861 and ratified February 6, 1863; and
- (2) The following lands once the Secretary of the Department of Interior has fully acquired such land into trust for the beneficial use of the Tribe as authorized in accordance with Section 5 of the Indian Reorganization Act, 25 USC 465 and under 25 CFR § 151.10:
  - (A) That part of the Southwest Quarter lying east of the present U.S. Highway No. 75 in Section 15, Township 4, Range 15, Brown County, Kansas;
  - (B) All of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 in Block 9 in the City of Reserve, Brown County, Kansas;
  - (C) A tract of land located in the West One-Half of the Southeast One-Quarter of Section 12, Township 1 South, Range 16 East of the Sixth Principal Meridian, Brown County, Kansas, being more particularly described as follows: Beginning at the Center One-Quarter Corner of said Section 12, Thence N89°16'58"E and along the North line of said Southeast One-Quarter a distance of 1328.13 feet to the Northeast Corner of the West One-Half of said Southeast One-Quarter; Thence S00°13'17"E and along the East line of said West One-Half a distance of 1486.02 feet to the Northeasterly corner of US Highway 73 Right-of-Way as described in District Court Case 12794, Parcel 13; Thence Northwesterly and along the Northerly Right-of-Way of US Highway 73 the following three courses: 1. N56°10'27"W a distance of 801.62 feet; 2. N61°53'27"W a distance of 251.30 feet; 3. N56°02'27"W a distance of 535.70 feet to a point on the West line of said Southeast One-Quarter; Thence N00°10'27"W and along the West line of said Southeast One-Quarter a distance of 605.50 feet to the Point of Beginning, containing 31.83 acres. AND A tract of land located in the West One-Half of the Southeast One-Quarter of Section 12, Township 1 South, Range 16 East of the Sixth Principal Meridian, Brown County, Kansas, being more particularly described as follows: Beginning at the South One-Quarter Corner of said

Section 12, Thence  $N00^{\circ}10'27''W$  and along the West line of said Southeast One-Quarter a distance of 1840.94 feet to the Southwesterly corner of US Highway 73 Right-of-Way as described in District Court Case 12794, Parcel 13; Thence Southeasterly and along the Southerly Right-of-Way of US Highway 73 the following three courses: 1.  $S56^{\circ}10'27''E$  a distance of 623.45 feet; 2.  $S50^{\circ}14'51''E$  a distance of 352.14 feet; 3.  $S56^{\circ}10'27''E$  a distance of 654.50 feet to a point on the East line of the West One-Half of said Southeast One-Quarter; Thence  $S00^{\circ}13'17''E$  and along the East line of said West One-Half a distance of 887.43 feet to the Southeast Corner of said West One-Half of the Southeast One-Quarter; Thence  $S89^{\circ}16'16''W$  and along the South line of said Southeast One-Quarter a distance of 1330.31 feet to the Point of Beginning, containing 41.63 acres. Said tracts containing a total of 73.46 acres;

- (D) A parcel of land located in the Southwest One-Quarter of Section 7, Township 1 South, Range 17 East of the Sixth Principal Meridian, Brown County, Kansas, being more particularly described as follows: Beginning at the South One-Quarter Corner of said Section 7, Thence  $N89^{\circ}38'42''W$  and along the South line of said Southwest One-Quarter a distance of 1563.87 feet to a point on the Easterly Right-of-Way of the Union Pacific Railroad; Thence Northerly and along the Easterly Right-of-Way of the Union Pacific Railroad the following three courses: 1.  $N06^{\circ}27'57''W$  a distance of 1331.84 feet; 2.  $S89^{\circ}39'01''E$  a distance of 50.36 feet; 3.  $N06^{\circ}27'57''W$  a distance of 1331.82 feet to a point on the North line of said Southwest One-Quarter; Thence  $S89^{\circ}39'20''E$  and along the North line of said Southwest One-Quarter a distance of 1798.84 feet; Thence  $S00^{\circ}19'01''E$  a distance of 210.32 feet to a point on the centerline of Walnut Creek; Thence Southerly and along the centerline of Walnut Creek generally the following nine courses: 1.  $S16^{\circ}39'07''W$  a distance of 74.67 feet; 2.  $S08^{\circ}37'19''E$  a distance of 102.59 feet; 3.  $S71^{\circ}28'24''W$  a distance of 85.07 feet; 4.  $S76^{\circ}57'12''W$  a distance of 86.41 feet; 5.  $S17^{\circ}24'59''W$  a distance of 85.60 feet; 6.  $S34^{\circ}27'31''E$  a distance of 51.75 feet; 7.  $N65^{\circ}20'21''E$  a distance of 49.67 feet; 8.  $N84^{\circ}54'06''E$  a distance of 68.59 feet; 9.  $S57^{\circ}01'48''E$  a distance of 66.38 feet to a point on the East line of said Southwest One-Quarter; Thence  $S0^{\circ}019'01''E$  and along the East line of said Southwest One-Quarter a distance of 125.53 feet to a point on the centerline of Walnut Creek; Thence Southerly and along the centerline of Walnut Creek generally the following five courses:

1. S24°20'03"W a distance of 142.98 feet; 2. S06°00'48"E a distance of 114.90 feet; 3. S02°38'41"W a distance of 195.67 feet; 4. S13°43'53"E a distance of 133.11 feet; 5. S55°33'32"E a distance of 33.42 feet to a point on the East line of said Southwest One-Quarter; Thence S00°19'01"E a distance of 1368.10 feet to the Point of Beginning, containing 100.88 acres. AND A parcel of land located in the Southwest One-Quarter of Section 7, Township 1 South, Range 17 East of the Sixth Principal Meridian, Brown County, Kansas, being more particularly described as follows: Commencing at the Southwest Corner of said Section 7, Thence N00°16'06"W and along the West line of said Southwest One-Quarter a distance of 595.44 feet to the Point of Beginning, Thence N00°16'06"W and along the West line of said Southwest One-Quarter a distance of 726.99 feet; Thence S89°39'01"E a distance of 562.67 feet to a point on the Westerly Right-of-Way of the Union Pacific Railroad; Thence S06°27'57"E and along the Westerly Right-of-Way of the Union Pacific Railroad Right-of-Way a distance of 1289.15 feet to a point on the Northerly Right-of-Way of US Highway 73 as described in District Court Case 12794, Parcel 9; Thence Northwesterly and along the Northerly Right-of-Way of US Highway 73 the following two courses: 1. N60°24'40"W a distance of 724.01 feet; 2. N13°59'07"W a distance of 173.61 feet; Thence N89°43'54"W a distance of 47.31 feet; Thence N00°16'06"W a distance of 75.00 feet; Thence S89°43'54"E a distance of 50.00 feet; Thence S00°16'06"E a distance of 63.99 feet; Thence N13°59'07"W and along the Northerly Right-of-Way of US Highway 73 a distance of 21.02 feet; Thence S89°45'14"W a distance of 25.02 feet to the Point of Beginning, containing 15.11 acres. Said tracts containing a total of 115.99 acres; and
- (E) A tract of land located in the South One-Half of Government Lot 1, Located in the Northwest One-Quarter of Section 15, Township 4 South, Range 15 East of the Sixth Principal Meridian, Brown County, Kansas, being more particularly described as follows: Beginning at the West One-Quarter Corner of said Section 15, Thence N00°33'17"E and along the West line of said Lot 1 a distance of 1292.86 feet to a point 30.00 feet Southerly of the Northwest Corner of the South One-Half of said Lot 1; Thence S89°43'06"E parallel with and 30.00 feet Southerly of the North line of the South One-Half of said Lot 1 a distance of 320.22 feet to the Westerly Right-of-Way of US Highway 75; Thence Southerly and along the Westerly Right-of-Way of US Highway 75 the following five courses: 1.



S00°40'04"W a distance of 554.21 feet; 2. S22°15'00"W a distance of 38.08 feet; 3. S00°40'04"W a distance of 30.00 feet; 4. S19°53'17"E a distance of 42.72 feet; 5. S00°40'04"W a distance of 633.40 feet to a point on the South line of said Government Lot 1; Thence N89°46'00"W and along the South line of said Lot 1 a distance of 317.80 feet to the Point of Beginning, containing 9.44 acres.

**“Compact Licensed Distributor”** shall mean any entity licensed under the Tribe’s law for distributing Cigarettes to Compact Licensed Retailers.

**“Compact Licensed Retailer”** shall mean any entity licensed under the Tribe’s law for the retail Sale of Cigarettes on Compact Lands.

**“Consumer”** shall mean the individual or entity purchasing or receiving Cigarettes or other Tobacco Products for final use.

**“Escrow Statutes”** shall mean Chapter 50, Article 6a of the Kansas Statutes Annotated.

**“Indian Tribe”** shall mean any Indian tribe, band, nation or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under the laws of the United States.

**“KDOR”** shall mean the Kansas Department of Revenue.

**“KSAG”** shall mean the Office of the Attorney General of the State of Kansas.

**“MSA”** shall mean the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States Tobacco Product Manufacturers; provided, however, that such term does not include the Secondary Settlement Agreement.

**“NPM”** shall have the meaning set forth for the term “Non-participating manufacturer” in K.S.A. § 50-6a07(g).

**“Pack”** shall mean one package of either twenty (20) or twenty-five (25) Cigarettes.

**“Parties”** or **“Party”** shall mean the State and the Tribe.

**“PM”** shall mean a “participating manufacturer” as that term is used in the Escrow Statutes.

**“Qualified Tribal Lands”** shall mean:

- (1) All land within the borders of the State that is within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of way running through such reservation;
- (2) all dependent Indian communities within the borders of the State;
- (3) all Indian allotments within the borders of the State, the Indian

titles to which have not been extinguished, including rights-of-way running through such allotments; and

- (4) any lands within the borders of the State, the title to which is either held in trust by the United States for the benefit of any Indian Tribe or individual, or held by any Indian Tribe or individual subject to restriction by the United States against alienation and over which an Indian Tribe exercises governmental power.

**“Sale”** (and any correlative term, such as **“Sell,” “Seller,”** or **“Sold”** shall have the correlative meaning) shall mean any sale, barter, trade, exchange, or other transfer of ownership for value of Cigarettes, no matter how characterized.

**“Secondary Settlement Agreement”** shall mean the 2003 NPM adjustment settlement agreement, which shall include the 2012 term sheet agreement, related to the MSA and to which State is a party.

**“State”** shall mean the State of Kansas, KDOR or KSAG used interchangeably.

**“Tribe”** or **“Tribal”** shall mean the Sac And Fox Nation Of Missouri In Kansas And Nebraska.

**“Tobacco Product Manufacturer”** shall mean an entity that after the Effective Date directly (and not exclusively through any affiliate):

- (1) manufactures Cigarettes anywhere that such manufacturer intends to be Sold in the United States, including Cigarettes intended to be Sold in the United States through an importer;
- (2) is the first purchaser anywhere for resale in the United States of Cigarettes manufactured anywhere that the manufacturer does not intend to be Sold in the United States; or
- (3) becomes a successor of an entity described in paragraph (1) or (2).

The term “Tobacco Product Manufacturer” shall not include an affiliate of a Tobacco Product Manufacturer unless such affiliate itself falls within any of paragraphs (1) through (3) above. Solely for purposes of this definition, the term “affiliate” shall mean a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of the preceding sentence, the terms “owns,” “is owned” and “ownership” mean ownership of any equity interest, or the equivalent thereof, of 10% or more, and the term “person” means an individual, partnership, committee, association, corporation or any other organization or group of persons.

**“Units Sold”** shall mean, with respect to a particular Tobacco Product Manufacturer for a particular year, the number of individual Cigarettes Sold in the State, including, without limitation, any Cigarettes Sold on any qualified tribal land within the State, by the applicable Tobacco Product Manufacturer, whether directly or through a distributor, re-

tailer, or similar intermediary or intermediaries, during the year in question, for which the State has the authority under federal law to impose excise or a similar tax or to collect escrow deposits, regardless of whether such taxes were imposed or collected by the State.

### **INTRODUCTION**

1. The purpose of this Compact is to resolve disputes between the Parties regarding possession, transport, distribution, and Sale of Cigarettes, including but not limited to taxation and escrow collection, on the Qualified Tribal Lands of the Tribe. For the purposes of this Compact, only, and for no other purpose whatsoever, the State and the Tribe agree that the Tribe's Treaties with the United States of America do not exempt, exclude or reserve the Tribe's land from the boundaries of Kansas. For the purposes of this Compact only, and for no other purpose whatsoever, the Tribe's Reservation and Qualified Tribal Lands are within the State of Kansas.
2. For purposes of this Compact, a Tribal-owned entity includes any entity wholly owned by the Tribe or any wholly-owned subsidiary of that entity. The Tribe shall provide the KSAG a list of all Tribal-owned entities relating in any way to manufacturing, handling, delivering, receiving, or Selling of Cigarettes on Compact Lands. The citation to any Kansas statute or regulation in this Compact refers to the version in effect on the date the Compact is executed by the Parties, unless the Parties specifically agree in writing to a modification of the Compact.

### **TERM**

3. This Compact shall commence on July 1, 2017 (the "Effective Date").
4. This Compact shall have a term of 10 years subject to automatic renewal absent a requested revision in writing by either Party or requested termination in writing by either Party with such notice occurring at least 60 days prior to the end of the term.
5. Either Party can revoke this Compact in writing at any time, provided the Parties have first attempted to resolve their differences. Before the revocation becomes effective, the revoking Party shall serve a written thirty (30) day notice of intent to revoke the Compact and thereafter schedule a meeting to discuss differences between the Parties with the option of continuing discussions beyond the thirty (30) days, upon joint written agreement of the Parties.

### **LICENSES**

6. The Tribe will enact an ordinance or other statutory means for licensing Compact Licensed Distributors which will be authorized to purchase only:

- (a) Unstamped Cigarettes from federally-licensed manufacturers or their federally-licensed direct importers, or
- (b) Joint State-Tribal stamped Cigarettes from State stamping agents, licensed under K.S.A. § 79-3303.

Said Tribal license will authorize Compact Licensed Distributors to Sell Cigarettes only to Compact Licensed Retailers licensed under paragraph 7 below; retailers licensed by another tribe which has signed a Compact with the State; or retailers and distributors located in a State other than Kansas that are licensed by a federally-recognized Indian Tribe.

7. The Tribe will enact an ordinance or other statutory means to license retail Cigarette dealers in Compact Lands. The license will be required for the retail Sale of Cigarettes to Consumers in the Compact Lands. The license will permit Compact Licensed Retailers to only purchase, possess and Sell at retail:
  - (a) Cigarettes bearing a joint State-Tribal stamp, as set out in paragraphs 10-18 below, from the Compact Licensed Distributors, and
  - (b) Cigarettes bearing a State stamp from a State-licensed stamping agent.
8. The Tribe will inform the State in writing of the name and address of the licensees issued licenses pursuant to paragraphs 6 and 7 above. Any changes will be updated quarterly if necessary.

#### **TAX**

9. The Tribe will enact a Cigarette excise tax, which shall be applied equally to all Cigarettes Sold on the Tribe's Compact Lands regardless of manufacturer or brand, which shall be collected by the affixation of a joint State-Tribal tax stamp to each Pack of Cigarettes Sold on the Tribe's Compact Lands.
10. State and the Tribe agree that each Pack of Cigarettes that a Compact Licensed Retailer Sells on Compact Lands shall bear a joint State-Tribal tax stamp that will be designed jointly by the Tribe and State.
  - (a) Said stamp shall bear the name "S&F" and "KS" and a logo in a form and color mutually agreeable to both the Tribe and State;
  - (b) State shall cause said stamps to be produced at its sole expense;
  - (c) State shall provide said joint State-Tribal stamps to the Tribe who shall be responsible for providing said State-Tribal stamps to Compact Licensed Distributors which shall be affixed on all Cigarettes to be Sold by Compact Licensed Retailers on Compact Lands;
  - (d) Compact Licensed Distributors shall ship all Cigarettes bearing joint State-Tribal stamps to the Tribe or to a Compact Licensed

Retailer at the expense of the Tribe, the Compact Licensed Distributor, or Compact Licensed Retailer. In no circumstance shall the cost of such shipping be paid by State.

11. Only Compact Licensed Distributors can collect Tribal taxes on Cigarettes and affix the joint State-Tribal tax stamps, provided that nothing in this paragraph or Compact shall be construed to limit licensing authority of a Tribal tax commission, agency, or other Tribal tax administration authority.
12. No State Cigarette taxes shall be owed or collected on Cigarettes stamped with the joint State-Tribal tax stamp and Sold on the Tribe's Compact Lands.
13. All Cigarettes Sold by Compact Licensed Retailers on the Tribe's Compact Lands will bear the joint State-Tribal tax stamp.
14. The Tribe's Cigarette excise tax shall be at a minimum \$0.17 per Pack of Cigarettes Sold at retail on Compact Lands.
15. Packs of Cigarettes stamped with the joint State-Tribal tax stamp shall be treated by the State the same as though stamped with the State's tax stamp for purposes of transport and Consumer use in the State outside of the Tribe's Compact Lands and for purposes of possession, distribution, Sale and Consumer use within the Tribe's Compact Lands.
16. Compact Licensed Distributors shall be responsible for affixing the joint State-Tribal tax stamp and paying the tax to the Tribe.
17. The cost of the tax shall be included in all retail Sales of Cigarettes on Compact Lands.
18. The State shall provide to the Tribe joint State-Tribal tax stamps within fifteen (15) days after the date requested and in sufficient amounts to ensure that the Tribe, Compact Licensed Distributors and Compact Licensed Retailers can meet Consumer demand for the purchase of Cigarettes.

#### **CIGARETTE SALES**

19. The Tribe, Compact Licensed Distributors, and Compact Licensed Retailers will maintain records of all Cigarette Sales made within its jurisdiction sufficient to prove the number of such Sales within Compact Lands.
20. State licensed distributors can Sell unstamped PM brands to Compact Licensed Distributors for stamping with the joint State-Tribal tax stamp and distribution within the Compact Lands.
21. Compact Licensed Distributors shall Sell to Compact Licensed Retailers only Packs of Cigarettes with the joint State-Tribal tax stamp affixed.

22. Compact Licensed Retailers shall Sell only Packs of Cigarettes with the joint State-Tribal tax stamp affixed on Compact Lands.
23. Compact Licensed Distributors shall Sell to Compact Licensed Retailers only brands of Cigarettes that are in compliance with the Escrow Statutes and the Kansas Fire Safety Standard and Firefighter Protection Act, K.S.A. § 31-601, *et seq.*, and listed as compliant brands in the Kansas directories of compliant manufacturers maintained by the KSAG pursuant to the Escrow Statutes.
24. Compact Licensed Retailers shall Sell on Compact Lands only brands of Cigarettes that are in compliance with the Escrow Statutes and the Kansas Fire Safety Standard and Firefighter Protection Act, K.S.A. § 31-601, *et seq.*, and listed as compliant brands in the Kansas directories of compliant manufacturers maintained by the KSAG pursuant to the Escrow Statutes.
25. Tobacco Product Manufacturers and first importers, as defined in the Escrow Statutes, shall be responsible for payment of escrow obligations to the State. Unless acting as a Tobacco Product Manufacturer or first importer, the Tribe is not taking on any obligation to deposit escrow nor is the Tribe required to otherwise satisfy any obligations under the Escrow Statutes unless specifically set forth herein.

#### **PAYMENT TO TRIBE**

26. The State acknowledges that the Tribe is incurring costs in its efforts to assist the State in ensuring compliance with State tobacco laws and the Secondary Settlement Agreement.
27. The State agrees to reimburse the Tribe for these costs in the amount of Seventy Thousand Dollars (\$70,000.00) for each quarter of the year, with payment to be made on the last day of the quarter (March 31, June 30, September 30, and December 31) during the initial five (5) year term of the Compact. For the following five (5) years during the remaining term of the Compact, the quarterly payment amount shall be increased fifteen percent (15%), as a one-time only increase, over the quarterly payment amount payable during the immediately prior five (5) year period.
28. As provided in Section VII of the Memorandum of Understanding for Voluntary Compliance for Cigarette Sales and Reporting (the "MOU"), entered into between the Tribe and the State, with an effective date of January 1, 2017, for its full compliance with the terms of such MOU, the State agrees to a one-time payment to the Tribe in the amount of \$35,000 to be paid on July 1, 2017.
29. As additional consideration to reimburse the Tribe for economic cost incurred by the tribe in assisting the State in its ongoing diligent enforcement efforts under the MSA and the Secondary Settlement

Agreement, the following shall be exempt from tax imposed by the Kansas Retailers' Sales Tax Act, K.S.A. 79-3601 *et. seq.* and amendments thereto: all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased by the Tribe or a Tribal-owned entity, and used exclusively for Tribal purposes.

#### GENERAL

30. Compact Licensed Distributors shall provide to the Tribe monthly a brand-specific list showing totals of all Cigarettes delivered to the Tribe and Compact Licensed Retailers for Sale on Compact Lands with the joint State-Tribal tax stamps affixed. The Tribe shall provide to the KDOR monthly a brand-specific list showing totals of all Cigarettes delivered to and Sold on the Tribe's Compact Lands with the joint State-Tribal tax stamp affixed, in a form and format agreed upon by the KDOR and the Tribe. This list for Sales during each calendar month shall be provided no later than 25 days after the end of the month. (For example, brands Sold during the month of January shall be listed and provided by February 25.)
31. The Parties agree that agents or employees of the Tribe and agents or employees of KSAG and/or KDOR will conduct joint inspections of Compact Licensed Retailers and Compact Licensed Distributors located on Compact Lands. In connection with any such joint inspection, the Tribe shall permit such agents or employees of the Tribe and agents or employees of KSAG and/or KDOR to review all documentation collected and maintained by the Tribe pursuant to this Compact.

The joint inspections shall be conducted using a method as agreed upon by the Parties, *provided, however*, such joint inspections shall not involve complete audits or complete inventories but shall be limited to random sample inspections of stock, tax indicia, and documentation on hand at the premises of a Compact Licensed Retailer or Compact Licensed Distributor, as applicable, for the purposes of verifying that all Cigarettes offered or intended for Sale by any Compact Licensed Retailer on Compact Lands (i) are solely brands of Tobacco Product Manufacturers meeting the requirements as provided in paragraphs 23 and 24, (ii) were acquired from a Compact Licensed Distributor, and (iii) bear indicia of payment of excise tax to the extent required in this Compact. In any event, such joint inspections shall not be disruptive of the business operations nor damage any inventory of any Compact Licensed Retailer or Compact Licensed Distributor.
32. The State reserves the right hereunder to initiate and participate in up to twelve (12) joint inspections described in paragraph 31 per

- calendar year, with a limit of up to two (2) such joint inspection per calendar month; *provided, however*, that joint inspections of any one or more separate premises on the same Business Day shall only constitute one “joint inspection” for purposes of the preceding limitations; *provided, further*, that if the State and Tribe inspection team notes any violations of this Compact by one or more Compact Licensed Retailers or Compact Licensed Distributors during any such joint inspection, the State may initiate, by giving notice in accordance with paragraph 33, one follow-up joint inspection with the Tribe of all premises involved in such violations on a subsequent Business Day following the earlier of notice of completed cure related to such violations, with such follow-up joint inspection not counting against the monthly or annual limits set forth in this sentence.
33. The Tribe shall make its personnel available for joint inspections permitted hereunder on a Business Day between the hours of 9:00 a.m. and 4:30 p.m. upon prior email notice to the Tribe transmitted by a representative of the State by 10:00 a.m. one Business Day prior to the requested inspection. State representatives and Tribal representatives shall coordinate the details of the joint inspection by 3:00 p.m. on the day of such email notice. Any email notice provided to the Tribe pursuant to this section shall be given at [tribaltax@sacandfoxcasino.com](mailto:tribaltax@sacandfoxcasino.com) or by written notice.
  34. Any Packs of Cigarettes found for Sale at a Compact Licensed Retailer during a permitted joint inspection that are not brands of Tobacco Product Manufacturers meeting the requirements as provided in paragraphs 23 and 24 or that do not bear indicia of payment of excise tax as required in this Compact shall be removed by the Tribe until the matter is resolved.
  35. Tribe and State shall select a third party auditor (the “Auditor”) for purposes of verifying compliance with this Compact. For purposes of verifying compliance with this Compact, the parties agree to jointly retain said Auditor and shall each bear fifty percent (50%) of the costs of the auditing services. The Auditor must possess a valid Kansas Permit to Practice issued by the Kansas Board of Accountancy. The Tribe and State shall be entitled to freely communicate with the Auditor. The Auditor will review records on an annual calendar year basis and issue an annual report and certification as provided herein.
    - (a) Audit Protocol. To verify compliance with this Compact, the Auditor must adhere to the following protocol:
    - (b) Period Under Review. The Auditor must review records for the calendar year under audit and may review records for earlier years that are after the Effective Date but only as necessary for an internal reconciliation of the relevant books. Subject to the foregoing, records relating to any period before the Effective



Date are not open to review. In situations where the Auditor is responsible for verifying records on less than an annual basis, the period under review shall not include years previously reviewed by the Auditor, except when a violation is alleged to have occurred during the period previously reviewed.

- (c) Records to be Examined. The Auditor must review records and invoices of stamp purchases, records and invoices of Sales of joint State-Tribal stamped Cigarettes, joint State-Tribal stamp inventory, the joint State-Tribal stamping process, products sold, product inventory records, and such additional records as are necessary to verify (1) the Units Sold (2) the retail selling price, including application of Tribal sales and excise taxes, and (3) procedures demonstrating the Tribe's compliance with this Compact, all with respect to Sales of Cigarettes on Compact Lands by the Tribe. In all situations, the Auditor is not responsible for examining, and shall not examine, records that do not relate to the stamping, Selling, or taxing activities of the Tribe on Compact Lands.
- (d) Audit Report and Certification. After each annual audit, the Auditor shall issue an audit report and a certification, as further described below, with respect to compliance with this Compact. The annual audit report shall set forth the total Units Sold attributable to each Tobacco Product Manufacturer by the Tribe during the relevant period. The annual audit report shall also include a certified statement of the Auditor to the KSAG that the Auditor finds the Tribe to be in compliance with this Compact or else that the Tribe is in compliance except for specifically listed items that are explained in the annual report.
- (e) Audit Schedule. Audit reviews shall take place following each calendar year (or portion thereof) during the term of this Compact, with an audit report submitted no later than April 1 following such calendar year.
- (f) Joint Audit Implementation and Review. The Tribe and the State shall meet jointly with the Auditor prior to the beginning of each annual audit. The purpose of such meeting will be to discuss the objectives of the upcoming audit, the expectations of the Tribe and of the State, the standards to be used in such audit, and any issues regarding conduct of the audit, records pertinent to the audit or the contents of the Auditor's report. The Tribe and State agree that the report will audit the processes, controls and the supporting documentation of the Tribe's purchases and Sales of Cigarettes and tobacco products on Compact Lands using both Generally Accepted Auditing Standards and Generally Accepted Accounting Principles. Subse-

quent meetings before and during the audit may be held as required. As soon as practicable after the issuance of the Auditor's report and certification, the Tribe and the State may meet jointly with the Auditor as often as required to review the audit report and discuss any issue of concern. In the event that either the Tribe or the State disagrees with the Auditor's report or certification, or any audit finding contained therein, either Party may notify the other of the disagreement and follow the procedures for resolution of the disagreement in Article III, Paragraph 1 of this Compact.

36. All information, including but not limited to, any lists showing total Sales of Cigarettes in paragraphs 30 and 31, provided to the State shall be held in confidence and only shared with other states, agencies, or other third parties (to which the State has a legal obligation to share such information), solely for enforcement purposes or for establishing the State's compliance with the MSA, Secondary Settlement Agreement and Escrow Statutes. The State agrees to provide notice to the Tribe ten (10) days prior to the release of such information to any of the Parties listed in this paragraph. The State may not share this information with any other person without written consent from the Compact Licensed Distributor that provided the information. Such information shall further be specifically exempt from disclosure under the Kansas Open Records Act (K.S.A. 45-215 *et seq.*).
37. During the Term of this Compact, State may enter into and be party to one or more compacts or other agreements regarding possession, transport, distribution, or Sale of Cigarettes or other Tobacco Products, including but not limited to taxation and escrow collection, with the Iowa Tribe of Kansas and Nebraska, the Kickapoo Tribe in Kansas or the Prairie Band Potawatomi Nation but State shall not enter into or be party to any such compact or agreement with any Indian Tribe other than the foregoing. The State agrees that Tribe may propose an amendment to this Compact by written notice to the State based on any provision of a compact which State may enter into with one or more of the foregoing Indian tribes which Tribe desires to include as a provision in this Compact. Any amendment proposed pursuant to this section will be subject to approval of the Kansas Legislature and the Tribe's Tribal Council.
38. The reference to and citation of State statutes and laws in this Compact shall be for reference only for the convenience of the Parties and considered nothing more than contractual terms and obligations. While the Tribe agrees to comply with all contractual obligations set forth in this Compact, no reference to or incorporation of laws, rules, or regulations in this Compact shall be construed as a waiver or ces-

sion of any sovereign authority or immunity of the Tribe or an agreement by the Tribe to be subject to such laws, rules or regulations within Indian Country except to the extent agreed to herein.

39. Notwithstanding any provision of this Compact to the contrary, the possession, gift, or use within the Tribe's Compact Lands of noncommercial privately produced tobacco for religious or ceremonial use shall be exempt from taxation by the State and may be exempt from taxation by the Tribe. Such tobacco shall be deemed not to be a common nuisance or contraband pursuant to State law or process, in each case on grounds of non-payment of any State tax. For the purposes of this section, "tobacco" shall mean any plant, including parts or products thereof, within the genus *Nicotania* and which does not constitute a "controlled substance" within the meaning of 21 U.S.C. 802(6).
40. All notices under this Compact shall be in writing and sent by way of certified U.S. mail to the following officials or their successors in office:

To the Tribe:

Chairperson and Tribal Council  
Sac and Fox Nation of Missouri in Kansas and Nebraska  
305 North Main Street  
Reserve, KS 66434

To the State:

To the Governor:  
Office of the Governor  
300 SW 10<sup>th</sup> Ave., Ste. 241S  
Topeka, KS 66612-1590

To the Attorney General:  
Office of the Kansas Attorney General  
120 SW 10<sup>th</sup> Ave., 2nd Floor  
Topeka, KS 66612-1597

To the Kansas Department of Revenue  
Secretary of Revenue  
915 SW Harrison Street, Second Floor  
Topeka, KS 66612-1588

The Parties agree to provide written notice within thirty (30) days of any change to the above addresses.

**IN WITNESS WHEREOF**, the parties hereto have executed this Compact as of the date first above written.

**Sac and Fox Nation of Missouri  
in Kansas and Nebraska**

**State of Kansas**

By: Edmore Green  
Chairman of the Tribal Council

By: Sam Brownback  
Governor

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## CHAPTER 60

Senate Substitute for HOUSE BILL No. 2026\*

AN ACT concerning the Kansas program of medical assistance; process and contract requirements; claims appeals.

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

Section 1. (a) Upon request by a participating healthcare provider under the Kansas medical assistance program, the secretary of health and environment shall provide accurate and uniform patient encounter data that complies with the federal health insurance portability and accountability act of 1996 and applicable federal and state statutory and regulatory requirements, including, but not limited to, the:

- (1) Managed care organization claim number;
- (2) patient medicaid identification number;
- (3) patient name;
- (4) type of claim;
- (5) amount billed by revenue code and procedure code;
- (6) managed care organization paid amount and paid date; and
- (7) hospital patient account number.

(b) Upon receiving a request for patient encounter data pursuant to subsection (a), the department of health and environment shall furnish to the participating healthcare provider all requested information within 60 calendar days after receiving the request for data. The department of health and environment may charge a reasonable fee for furnishing requested data, including only the cost of any computer services, including staff time required.

(c) (1) The secretary shall require any managed care organization providing state medicaid or children's health insurance program services under the Kansas medical assistance program to provide documentation to a healthcare provider when the managed care organization denies any portion of any claim for reimbursement submitted by the provider, including a specific explanation of the reasons for denial and utilization of remark codes, remittance advice and health insurance portability and accountability act of 1996 standard denial reasons.

(2) Each managed care organization shall offer quarterly in-person training on remark codes and health insurance portability and accountability act of 1996 standard denial reasons and any other denial reasons or remark codes specific to the managed care organization.

(d) The secretary shall require managed care organizations providing state medicaid or children's health insurance program services under the Kansas medical assistance program to offer quarterly in-person education regarding billing guidelines, reimbursement requirements and program policies and procedures utilizing a format approved by the secretary and incorporating information collected through semi-annual surveys of participating healthcare providers.

(e) The secretary shall develop uniform standards to be utilized by each managed care organization providing state medicaid or children's health insurance program services under the Kansas medical assistance program regarding:

(1) A standardized enrollment form and a uniform process for credentialing and re-credentialing healthcare providers who have signed contracts or participation agreements with any such managed care organization;

(2) procedures, requirements, periodic review and reporting of reductions in and limitations for prior authorization for healthcare services and prescriptions;

(3) retrospective utilization review of re-admissions that complies with any applicable federal statutory or regulatory requirements for the medicaid program or the children's health insurance program, prohibiting such reviews for any recipient of medical assistance who is re-admitted with a related medical condition as an inpatient to a hospital more than 15 days after the recipient patient's discharge;

(4) a grievance, appeal and state fair hearing process that complies with applicable federal and state statutory and regulatory procedure requirements, including any statutory remedies for timely resolution of grievances, appeals and state fair hearings, imposed upon managed care organizations providing state medicaid or children's health insurance program services; and

(5) requirements that each managed care organization, within 60 calendar days of receiving an appeal request, provide notice and resolve 100% of provider appeals, subject to remedies, including, but not limited to, liquidated damages if provider appeals are not resolved within the required time.

(f) The secretary shall procure the services of an independent auditor for the purpose of reviewing, at least once per calendar year, a random sample of all claims paid and denied by each managed care organization and each managed care organization's subcontractors.

(1) Each managed care organization and each managed care organization's subcontractors shall be required to pay any claim that the inde-

pendent auditor determines to be incorrectly denied. Each managed care organization and each managed care organization's subcontractors may also be required to pay liquidated damages, as determined by the department of health and environment.

(2) Each managed care organization and each managed care organization's subcontractors shall be required to pay the cost of audits conducted under this subsection.

(3) The provisions of this subsection shall expire on January 1, 2020.

(g) The secretary shall require each managed care organization to pay 100% of the state-established per diem rate to nursing facilities for current medicaid-enrolled residents during any re-credentialing process caused by a change in ownership of the nursing facility.

(h) On and after the effective date of this section, a managed care organization providing state medicaid or children's health insurance program services under the Kansas medical assistance program shall not discriminate against any licensed pharmacy or pharmacist located within the geographic coverage area of the managed care organization that is willing to meet the conditions for participation established by the Kansas medical assistance program and to accept reasonable contract terms offered by the managed care organization.

(i) The secretary shall adopt rules and regulations as may be necessary to implement the provisions of this section prior to January 1, 2018.

Sec. 2. (a) (1) Any managed care organization providing state medicaid services pursuant to a contract with the Kansas program of medical assistance shall include in any letter to a participating healthcare provider reflecting a final decision of the managed care organization's internal appeal process:

(A) A statement that the provider's internal appeal rights within the managed care organization have been exhausted;

(B) a statement that the provider is entitled to an external independent third-party review pursuant to this section; and

(C) the requirements to request an external independent third-party review.

(2) For each instance that a letter does not comply with the requirements of paragraph (1), the managed care organization shall pay to the participating healthcare provider a penalty not to exceed \$1,000.

(b) (1) On and after January 1, 2020, a provider who has been denied a healthcare service to a recipient of medical assistance or a claim for reimbursement to the provider for a healthcare service rendered to a recipient of medical assistance and who has exhausted the internal written appeals process of a managed care organization providing state medicaid services pursuant to a contract with the Kansas program of medical assistance shall be entitled to an external independent third-party review of the managed care organization's final decision.

(2) To request an external independent third-party review of a final decision by a managed care organization, an aggrieved provider shall submit a written request for such review to the managed care organization within 60 calendar days of receiving the managed care organization's final decision resulting from the managed care organization's internal review process. A provider's request for such review shall:

(A) Identify each specific issue and dispute directly related to the adverse final decision issued by the managed care organization;

(B) state the basis upon which the provider believes the managed care organization's decision to be erroneous; and

(C) provide the provider's designated contact information, including name, mailing address, phone number, fax number and email address.

(3) Within five business days of receiving a provider's request for review pursuant to this section, the managed care organization shall:

(A) Confirm to the provider's designated contact, in writing, that the managed care organization has received the request for review;

(B) notify the department of health and environment of the provider's request for review; and

(C) notify the recipient of medical assistance of the provider's request for review, if related to the denial of a healthcare service.

If the managed care organization fails to satisfy the requirements of this paragraph, then the provider shall automatically prevail in the review.

(4) Within 15 business days of receiving a provider's request for external independent third-party review, the managed care organization shall:

(A) Submit to the department of health and environment all documentation submitted by the provider in the course of the managed care organization's internal appeal process; and

(B) provide the managed care organization's designated contact information, including name, mailing address, phone number, fax number and email address.

If the managed care organization fails to satisfy the requirements of this paragraph, then the provider shall automatically prevail in the review.

(6) (A) An external independent third-party review shall automatically extend the deadline to request a hearing before the office of administrative hearings of the department of administration pending the outcome of the external independent third-party review. Upon conclusion of the external independent third-party review, the reviewer shall forward a copy of the decision and a new notice of action to the provider, recipient, applicable managed care organization, department of health and environment and Kansas department for aging and disability services. When a deadline to request a hearing before the office of administrative hearings has been extended pending the outcome of an external independent third-party review, all parties shall be granted an additional 30 days from

receipt of the review decision and notice of action to request a hearing before the office of administrative hearings.

(B) If a recipient of medical assistance or participating healthcare provider files a request for a hearing before the office of administrative hearings regarding a claim for which the provider has filed a request for external independent third-party review, then the department of health and environment and the Kansas department for aging and disability services shall immediately request a continuance from the office of administrative hearings. The department of health and environment and the Kansas department for aging and disability services shall forward the decision of the review to the office of administrative hearings for consideration by the hearing officer together with any other facts of the case.

(7) Upon receiving notification of a request for external independent third-party review, the department of health and environment shall:

(A) Assign the review to an external independent third-party reviewer;

(B) notify the managed care organization of the identity of the external independent third-party reviewer; and

(C) notify the provider's designated contact of the identity of the external independent third-party reviewer.

(8) The department shall deny a request for external independent third-party review if the requesting provider fails to:

(A) Exhaust the managed care organization's internal appeal process; or

(B) submit a timely request for an external independent third-party review pursuant to this section.

(c) (1) Multiple appeals to the external independent third-party review process regarding the same recipient of medical assistance, a common question of fact or interpretation of common applicable regulations or reimbursement requirements may be determined in one action upon request of a party in accordance with rules and regulations adopted by the department of health and environment. The provider that initiated a request for an external independent third-party review process, or one or more other providers, may add other initial denials of claims to such review prior to final decision and after exhaustion of any applicable written internal appeals process of the applicable managed care organization if the claims involve a common question of fact or interpretation of common applicable regulations or reimbursement requirements.

(2) Documentation reviewed by the external independent third-party reviewer shall be limited to documentation submitted pursuant to subsection (b)(4)(A).

(3) An external independent third-party reviewer shall:

(A) Conduct an external independent third-party review of any claim submitted to the reviewer pursuant to this section; and

(B) within 30 calendar days from receiving the request for review



from the department and the documentation submitted pursuant to subsection (b)(4)(A), issue the reviewer's final decision to the provider's designated contact, the managed care organization's designated contact and the department. The reviewer may extend the time to issue a final decision by 14 calendar days upon agreement of both parties to the review.

(d) Within 10 business days of receiving a final decision of an external independent third-party review, the managed care organization shall notify the impacted recipient of medical assistance and the participating healthcare provider of the final decision, if related to the denial of a healthcare service.

(e) A party, including the recipient of medical assistance or the participating healthcare provider, may appeal a final decision of the external independent third-party review process to the office of administrative hearings of the department of administration in accordance with the Kansas administrative procedure act within 30 calendar days from receiving the final decision of the external independent third-party review. A party may appeal an order of the office of administrative hearings in accordance with the Kansas judicial review act.

(f) The final decision of any external independent third-party review conducted pursuant to this section shall also direct the losing party of the review to pay an amount equal to the costs of the review to the third-party reviewer. Any payment ordered pursuant to this subsection shall be stayed pending any appeal of the review. If the final outcome of any appeal is to reverse the decision of the external independent third-party review, the losing party of the appeal shall be required to pay the costs of the review to the third-party reviewer within 45 calendar days of entry of the final order.

(g) The department of health and environment shall adopt rules and regulations to implement the provisions of this section prior to January 1, 2020.

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

Approved April 24, 2017.

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## CHAPTER 61

House Substitute for SENATE BILL No. 70  
(Amended by Chapter 103)

AN ACT concerning amusement rides; relating to the Kansas amusement ride act; amending K.S.A. 40-4801 and K.S.A. 2016 Supp. 40-4802, 44-1601, 44-1602, 44-1603, 44-1604, 44-1607, 44-1610, 44-1613 and 44-1614 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 44-1615.

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

New Section 1. (a) No amusement ride shall be operated in this state unless a valid permit for such ride has been issued by the department. The owner of an amusement ride shall make application for a permit for such amusement ride to the secretary on such form and in such manner as prescribed by the secretary. The application for a permit shall include, but is not limited to, the following:

- (1) The name of the owner and operator of the amusement ride;
- (2) the location of the amusement ride, or the location where such ride is stored when not in use;
- (3) proof of insurance; and
- (4) certification that such ride meets the applicable ASTM international F24 committee standards.

(b) Each applicant shall submit a permit fee along with the application in an amount as follows:

- (1) For amusement rides erected at a permanent location, \$75 for a class A amusement ride, and \$100 for a class B amusement ride;
- (2) for amusement rides erected at a temporary location, \$30; and
- (3) for amusement rides owned or operated by a municipality or a nonprofit entity, whether erected at a permanent or temporary location, \$10.

(c) Upon approval of an application and receipt of the required fee, the secretary shall issue a permit for the amusement ride. Such permit shall be valid for one year from the date of issuance. Any permit fee paid by an applicant shall be returned to the applicant if the application is denied.

(d) In addition to the permit fees required under subsection (a), no amusement ride shall be operated in this state unless the owner of such ride has registered as an amusement ride owner with the department. Registration shall be valid for a period of one year. The owner of an amusement ride shall register with the department in such form and in such manner as prescribed by the secretary, and by paying a registration fee as follows:

- (1) For amusement rides erected at a permanent location, \$500;
- (2) for amusement rides erected at a temporary location, \$250; and
- (3) for amusement rides owned by a municipality or nonprofit entity, whether erected at a permanent or temporary location, \$50.

The fee required under this subsection shall be an annual fee paid by

the owner, regardless of the number of amusement rides owned by such owner.

(e) All fees received by the secretary pursuant to this section shall be remitted by the secretary 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 amusement ride safety fund.

New Sec. 2. There is hereby established in the state treasury the amusement ride safety fund, which shall be administered by the department of labor. The amusement ride safety fund shall consist of those moneys credited to the amusement ride safety fund pursuant to K.S.A. 44-1610 and section 1, and amendments thereto. All expenditures from the amusement ride safety fund shall be for the administration and enforcement of the Kansas amusement ride act, and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary, or the secretary's designee.

New Sec. 3. (a) (1) A patron, or a patron's parent or guardian on a patron's behalf, shall report in writing to the owner any injury sustained on an amusement ride before leaving the premises. Such report shall include:

- (A) The name, address and phone number of the injured person;
- (B) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
- (C) the cause of the injury, if known; and
- (D) the names, addresses and phone numbers of any witnesses to the incident.

(2) If a patron, or a patron's parent or guardian, is unable to file a report because of the severity of the patron's injuries, the patron or the patron's parent or guardian shall file the report as soon as reasonably possible.

(3) The owner shall prominently display signage at the point of admission or ticket sale and at least two other locations in close proximity to the amusement ride explaining a patron's duty to report injuries sustained on such amusement ride. Such signage shall include instructions on how to contact the owner's representatives if immediate assistance is needed and how to make an injury report.

(4) The failure of a patron, or the patron's parent or guardian, to report an injury under this subsection shall have no effect on the patron's right to commence a civil action.

(b) The owner of an amusement ride shall notify the department of any serious injury reported by a patron, or any injury caused by a malfunction or failure of an amusement ride or caused by an operator or

patron error. Such notification shall be submitted to the department within 72 hours of the time that the operator becomes aware of the injury.

(c) If a serious injury occurs, the equipment or conditions that caused the injury shall be preserved for the purpose of an investigation by the department and such amusement ride shall be immediately removed from service until an investigation is completed or deemed unnecessary by the secretary. Except as provided in subsection (d), if investigation of a serious injury is not commenced within 24 hours after the department receives notification of such injury, then an investigation shall be deemed unnecessary.

(d) If the serious injury results in the death of a patron, the owner shall notify the department of the injury as soon as possible. Such notification shall be by telephone initially with a written notification sent within 24 hours after the initial notice. If the patron's death is related to a major malfunction of the amusement ride, an investigation shall be required and the department shall commence such investigation within 24 hours after receiving initial notice of the injury. No part of the amusement ride or the ride itself, shall be moved or repaired without the written approval of the secretary, or the secretary's designee, except that nothing in this subsection shall be construed so as to hinder emergency response personnel from performing their duties, or to prevent the elimination of an obvious safety hazard. The owner shall provide the department with complete access to the amusement ride and all related premises for the purposes of the investigation and shall provide all information related to the cause of the injury to the department.

Sec. 4. K.S.A. 40-4801 is hereby amended to read as follows: 40-4801. As used in K.S.A. ~~40-4801 through 40-4802~~ and 40-4803, and amendments thereto:

(a) (1) ~~“Amusement ride” means any mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include but not be limited to:~~

~~(A) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love and roller coasters;~~

~~(B) equipment generally associated with winter activities, such as ski lifts, ski tows, j bars, t bars, chair lifts and aerial tramways;~~

~~(C) equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride;~~

~~(D) any inflatable equipment or other device that does not have a rigid structure or frame and which is inflated or otherwise supported by air pressure; and~~

~~(E) any amusement ride not excluded under paragraph (2) of this subsection.~~

~~(2) "Amusement ride" shall not include:~~

~~(A) Games, concessions and associated structures;~~

~~(B) any single passenger coin-operated ride that: (i) Is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator; and~~

~~(C) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices.~~

~~(b) "Operator" means a person actually engaged in or directly controlling the operations of an amusement ride.~~

~~(c) "Owner" means a person who owns, leases, controls or manages the operations of an amusement ride and may include the state or any political subdivision of the state, the terms "amusement ride," "operator" and "owner" shall have the same meanings as those terms are defined in K.S.A. 2016 Supp. 44-1601, and amendments thereto.~~

Sec. 5. K.S.A. 2016 Supp. 40-4802 is hereby amended to read as follows: 40-4802. No amusement ride shall be operated in this state unless at the time of operation the owner has in effect an insurance policy insuring the owner and operator against liability for bodily injury to persons arising out of the operation of the amusement ride. The insurance policy shall be written by an insurance company doing business in Kansas, *or by a surplus lines insurer*. Such insurance policy shall:

(a) Provide for coverage in an amount not less than \$1,000,000 *per occurrence with a \$2,000,000 annual aggregate*, except that this requirement shall ~~not apply~~ *be satisfied* if the owner of such amusement ride is the state; ~~or any subdivision of the state or a not-for-profit organization organized under the laws of Kansas~~ *and such owner self-insures, or participates in a public entity self-insurance pool in accordance with K.S.A. 75-6111, and amendments thereto; and*

(b) name as an additional insured any person contracting with the owner for the amusement ride's operation.

Sec. 6. K.S.A. 2016 Supp. 44-1601 is hereby amended to read as follows: 44-1601. As used in this act:

(a) (1) "Amusement ride" means any mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include *all rides and devices included under ASTM international F24 committee standards, including*, but not be limited to:

(A) Rides commonly known as ferris wheels, carousels, parachute

towers, bungee jumping, reverse bungee jumping, tunnels of love ~~and~~, roller coasters, *boat rides*, *water slides*, *inflatable devices*, *trampoline courts* and *go-karts*;

(B) equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways; and

(C) equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride.

(2) “Amusement ride” does not include:

(A) Games, concessions and associated structures;

(B) any single passenger coin-operated ride that: (i) Is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;

~~(C)~~ nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, ~~trampolines~~, ~~moon walks~~ and other inflatable equipment and physical fitness devices; or

(D) home-owned amusement rides.

(b) “Certificate of inspection” means a certificate, signed and dated by a qualified inspector, showing that an amusement ride has satisfactorily passed inspection by such inspector.

(c) “Class A amusement ride” means an amusement ride designed for use primarily by individuals aged 12 or less.

(d) “Class B amusement ride” means an amusement ride that is not classified as a class A amusement ride.

~~(e)~~(e) “Department” means the department of labor.

~~(d)~~(f) “Home-owned amusement ride” means an amusement ride owned by a ~~not-for-profit entity~~ *an individual* and operated:

~~(1)~~ Solely within a single county;

~~(2)~~ by individuals on a volunteer basis; and

~~(3)~~ for a period not to exceed 12 days within one calendar year *solely within a single county for strictly private use*.

~~(e)~~(g) “Nondestructive testing” means the development and application of technical methods *in accordance with ASTM F747 standards* such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

(1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;

(2) assess integrity, properties and composition; and

(3) measure geometrical characters.

~~(f)~~(h) “Operator” means a person actually *supervising*, or engaged in or directly controlling the operations of an amusement ride.

~~(g)~~(i) “Owner” means a person who owns, leases, controls or manages the operations of an amusement ride and may include the state or any political subdivision of the state.

~~(h)~~(j) “Parent or guardian” means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051, and amendments thereto.

~~(i)~~(k) (1) “Patron” means any individual who is:

(A) Waiting in the immediate vicinity of an amusement ride to get on the ride;

(B) getting on an amusement ride;

(C) using an amusement ride;

(D) getting off an amusement ride; or

(E) leaving an amusement ride and still in the immediate vicinity of the ride.

(2) “Patron” does not include employees, agents or servants of the owner while engaged in the duties of their employment.

~~(j)~~(l) “Person” means any individual, association, partnership, corporation, limited liability company, government or other entity.

~~(k)~~(m) “Qualified inspector” means a person who ~~holds a current certification or other evidence of qualification to inspect amusement rides, issued by a program specified by rules and regulations adopted under K.S.A. 2016 Supp. 44-1602, and amendments thereto.~~

(A) *Is a licensed professional engineer, as defined in K.S.A. 74-7003, and amendments thereto, and has completed at least two years of experience in the amusement ride field, consisting of at least one year of actual inspection of amusement rides under a qualified inspector for a manufacturer, governmental agency, amusement park, carnival or insurance underwriter, and an additional year of practicing any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair or operation;*

(B) *provides satisfactory evidence of completing a minimum of five years of experience in the amusement ride field, at least two years of which consisted of actual inspection of amusement rides under a qualified inspector for a manufacturer, governmental agency, amusement park, carnival or insurance underwriter, and the remaining experience consists of any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair or operation; or*

(C) *has received qualified training from a third party, such as attainment of level II certification from the national association of amusement ride safety officials (NAARSO), attainment of level II certification from the amusement industry manufacturers and suppliers international (AIMS), attainment of a qualified inspector certification from the association for challenge course technology (ACCT), Pennsylvania department*

of agriculture — general qualified inspector status, or other similar qualification from another nationally recognized organization.

~~(l)~~(n) “Secretary” means the secretary of labor.

~~(m)~~(o) “Serious injury” means an injury that results in:

(1) Death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;

(2) a compound fracture; or

(3) other significant injury or illness that requires immediate ~~admission and overnight hospitalization and observation by a licensed physician medical treatment.~~

~~(n)~~(p) “Sign” means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

(q) “Water slide” means a slide that is at least 15 feet in height and that uses water to propel the patron through the ride.

Sec. 7. K.S.A. 2016 Supp. 44-1602 is hereby amended to read as follows: 44-1602. (a) ~~The secretary shall adopt rules and regulations specifying programs that issue certification or other evidence of qualification to inspect amusement rides and that the secretary determines require education, experience and training at least equivalent to those required on the effective date of this act for a level 1 certification by the national association of amusement ride safety officials. The secretary shall develop an inspection check list which shall be posted on the department web site.~~

~~(b)~~—No amusement ride shall be operated in this state unless such ride has a valid certificate of inspection. An amusement ride erected ~~at a permanent location~~ in this state shall be ~~self-inspected~~ inspected by a qualified inspector at least every 12 months. ~~An amusement ride erected at a temporary location in this state shall have been self-inspected by a qualified inspector within the preceding 30 days.~~ The certificate of an inspection required by this subsection shall be signed and dated by the inspector and shall be available to any person contracting with the owner for the amusement ride’s operation. In addition, a visible inspection decal ~~provided by the department~~ or other evidence of inspection shall be posted in plain view on or near the amusement ride, in a location where it can easily be seen.

(b) *Inspections performed pursuant to this section shall be paid for by the owner of the amusement ride, or in the case of a state agency or political subdivision of the state, such governmental entity shall pay for the inspection.*

(c) *In addition to the annual inspection required by subsection (a), the operator of an amusement ride shall perform and record daily in-*



*spections of the amusement ride. The daily inspection shall include an inspection of equipment identified for daily inspection in accordance with the applicable codes and the manufacturer's recommendations.*

~~(c)(d)~~ The secretary shall conduct random inspections of amusement rides erected both at permanent locations and at temporary locations. A warning citation for violation of this act shall be issued against any owner or operator for a first violation ~~but no criminal proceeding shall be brought.~~

*(e) The secretary shall develop an inspection check list, which shall be posted on the department's website.*

Sec. 8. K.S.A. 2016 Supp. 44-1603 is hereby amended to read as follows: 44-1603. The owner of an amusement ride shall retain at all times ~~current maintenance and inspection~~ records *relating to the construction, repair and maintenance of its operation, including safety, inspection, maintenance records and ride operator training activities* for such ride. Such records shall be available to any person contracting with the owner for the amusement ride's operation, *and shall be made available to the department at reasonable times, including during an inspection upon the department's request. Records of daily inspections must be available for inspection at the location where the ride or device is operated. All records must be maintained for a period of three years.*

Sec. 9. K.S.A. 2016 Supp. 44-1604 is hereby amended to read as follows: 44-1604. *(a) Amusement rides shall be constructed, maintained, operated and repaired in accordance with ASTM standards adopted by the ASTM international F24 committee, as published in ASTM international standards volume 15.07.*

*(b) No amusement ride shall be operated in this state unless non-destructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride ~~and~~ or in conformance with standards at least equivalent to those of the American society for testing and materials that are in effect on the effective date of this act ASTM standards adopted by the ASTM international F24 committee, as published in ASTM international standards volume 15.07, whichever is applicable.*

Sec. 10. K.S.A. 2016 Supp. 44-1607 is hereby amended to read as follows: 44-1607. *(a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.*

*(b) Each patron of an amusement ride has a duty to:*

- (1) Exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;*
- (2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;*

(3) refrain from participation in an amusement ride while under the influence of alcohol or drugs;

(4) engage all safety devices that are provided;

(5) refrain from disconnecting or disabling any safety device except at the express direction of the owner's agent or employee; and

(6) refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee.

~~(c)(1) A patron, or a patron's parent or guardian on a patron's behalf, shall report in writing to the owner any injury sustained on an amusement ride before leaving the premises, including:~~

~~(A) The name, address and phone number of the injured person;~~

~~(B) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;~~

~~(C) the cause of the injury, if known; and~~

~~(D) the names, addresses and phone numbers of any witnesses to the incident.~~

~~(2) If a patron, or a patron's parent or guardian on a patron's behalf, is unable to file a report because of the severity of the patron's injuries, the patron or the patron's parent or guardian on the patron's behalf shall file the report as soon as reasonably possible.~~

~~(3) The failure of a patron, or the patron's parent or guardian on a patron's behalf, to report an injury under this subsection shall have no effect on the patron's right to commence a civil action.~~

~~(d) Any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this act.~~

Sec. 11. K.S.A. 2016 Supp. 44-1610 is hereby amended to read as follows: 44-1610. (a) It is a class B misdemeanor for an owner or operator of an amusement ride knowingly to operate, or cause or permit to be operated, any amusement ride ~~in violation of this act~~ *without a valid permit issued by the secretary.*

(b) ~~It is a class C misdemeanor knowingly to violate the provisions of K.S.A. 2016 Supp. 44-1608, and amendments thereto~~ *A notice of violation may be issued by the department when an amusement ride is found to be out of compliance with the provisions of this act, or any rules or regulations adopted pursuant thereto. The notice of violation may include an order to cease and desist operation of the specific amusement ride until all violations are satisfactorily corrected.*

(c) *Within 10 business days after a notice of violation has been issued, the person issued such notice may file a written request with the department for an informal conference regarding the notice. If the person issued the notice of violation does not request an informal conference within this time frame, all provisions of the notice shall become final. If the notice of violation is not resolved within the prescribed time frame, the department*

may seek judicial enforcement of the notice of violation, or an enforcement order may be issued.

(d) *The secretary may impose a fine of not more than \$1,000 for any violation of the provisions of this act, or any rules or regulations adopted pursuant thereto. All fines received by the secretary pursuant to this section shall be remitted by the secretary 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 amusement ride safety fund.*

~~(c)~~(e) Each day a violation continues shall constitute a separate offense.

(f) *The provisions of this section shall be subject to the Kansas administrative procedure act.*

Sec. 12. K.S.A. 2016 Supp. 44-1613 is hereby amended to read as follows: 44-1613. The provisions of K.S.A. 2016 Supp. 44-1601 through ~~44-1612, and 44-1615~~ 44-1614 and sections 1 through 3, and amendments thereto, ~~and this section, and amendments thereto,~~ shall be known as the Kansas amusement ride act.

Sec. 13. K.S.A. 2016 Supp. 44-1614 is hereby amended to read as follows: 44-1614. (a) The secretary of labor shall adopt rules and regulations necessary to implement provisions of the Kansas amusement ride act, K.S.A. 2016 Supp. 44-1601 through ~~44-1613 and 44-1615~~ *et seq.*, and amendments thereto.

(b) *The secretary shall adopt rules and regulations specifying nationally recognized organizations that issue certifications or other evidence of qualification to inspect amusement rides, and that require education, experience and training at least equivalent to that required for a level II certification from NAARSO as of July 1, 2017.*

(c) *All references to the American society for testing and materials (ASTM) standards shall be to those standards adopted by the ASTM international F24 committee, as published in ASTM international standards volume 15.07, or any later version adopted by the secretary in rules and regulations.*

Sec. 14. K.S.A. 40-4801 and K.S.A. 2016 Supp. 40-4802, 44-1601, 44-1602, 44-1603, 44-1604, 44-1607, 44-1610, 44-1613, 44-1614 and 44-1615 are hereby repealed.

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

## CHAPTER 62

SENATE BILL No. 112  
(Amended by Chapter 100)

AN ACT concerning crimes, punishment and criminal procedure; relating to evidence; videotaping of certain felony, custodial interrogations; domestic battery; creating the crime of aggravated domestic battery; controlled substances; unlawful possession of drug paraphernalia; burglary; cruelty to animals; unlawful conduct of dog fighting; sentencing for crimes committed against a law enforcement officer; expungement; arrest records; post-trial motions, correction of sentence; postrelease supervision; persons convicted of a sexually violent crime; amending K.S.A. 22-3504 and K.S.A. 2016 Supp. 21-5414, 21-5709, 21-5807, 21-6412, 21-6414, 21-6804, 22-2410 and 22-3717 and repealing the existing sections.

WHEREAS, The provisions of K.S.A. 2016 Supp. 21-6804(y), as amended by this act, shall be known and may be cited as the law enforcement protection act.

Now, therefore:

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

New Section 1. (a) All law enforcement agencies in this state shall adopt a detailed, written policy requiring electronic recording of any custodial interrogation conducted at a place of detention.

(b) All local law enforcement agencies in this state shall collaborate with the county or district attorney in the appropriate jurisdiction regarding the contents of written policies required by this section.

(c) Policies adopted pursuant to this section shall be made available to all officers of such agency and shall be available for public inspection during normal business hours.

(d) Policies adopted pursuant to this section shall be implemented by all Kansas law enforcement agencies on or before July 1, 2018.

(e) Policies adopted pursuant to this section shall include the following:

(1) A requirement that an electronic recording shall be made of an entire custodial interrogation at a place of detention when the interrogation concerns a homicide or a felony sex offense;

(2) a requirement that if the defendant elects to make or sign a written statement during the course of a custodial interrogation concerning a homicide or a felony sex offense, the making and signing of the statement shall be electronically recorded;

(3) a statement of exceptions to the requirement to electronically record custodial interrogations, including, but not limited to:

(A) An equipment malfunction preventing electronic recording of the interrogation in its entirety, and replacement equipment is not immediately available;

(B) the officer, in good faith, fails to record the interrogation because the officer inadvertently fails to operate the recording equipment prop-

erly, or without the officer's knowledge the recording equipment malfunctions or stops recording;

(C) the suspect affirmatively asserts the desire to speak with officers without being recorded;

(D) multiple interrogations are taking place, exceeding the available electronic recording capacity;

(E) the statement is made spontaneously and not in response to an interrogation question;

(F) the statement is made during questioning that is routinely asked during the processing of an arrest of a suspect;

(G) the statement is made at a time when the officer is unaware of the suspect's involvement in an offense covered by the policy;

(H) exigent circumstances make recording impractical;

(I) at the time of the interrogation, the officer, in good faith, is unaware of the type of offense involved; and

(J) the recording is damaged or destroyed, without bad faith on the part of any person or entity in control of the recording; and

(4) requirements pertaining to the retention and storage requirements of the electronic recording.

(f) (1) During trial, the officer may be questioned pursuant to the rules of evidence regarding any violation of the policies adopted pursuant to this section.

(2) Lack of an electronic recording shall not be the sole basis for suppression of the interrogation or confession.

(g) Every electronic recording of any statement as required by this section shall be confidential and exempt from the Kansas open records act in accordance with K.S.A. 45-229, and amendments thereto. The provisions of this subsection shall expire on July 1, 2022, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

(h) The following words and phrases, as used in this section, are defined as follows:

(1) "Custodial interrogation" means questioning of a person to whom warnings given pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), are required to be given;

(2) "place of detention" means a fixed location under the control of a Kansas law enforcement agency where individuals are questioned about alleged crimes; and

(3) "electronic recording" means audio or audiovisual recording. An audiovisual recording is preferred.

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

Sec. 2. On and after July 1, 2017, K.S.A. 2016 Supp. 21-5414 is hereby amended to read as follows: 21-5414. (a) Domestic battery is:

(1) Knowingly or recklessly causing bodily harm ~~by~~ to a person with

whom the offender is involved or has been involved in a dating relationship or a family or household member ~~against a family or household member~~; or

(2) knowingly causing physical contact with a person with whom the offender is involved or has been involved in a dating relationship or a family or household member ~~by a family or household member~~, when done in a rude, insulting or angry manner.

(b) *Aggravated domestic battery is:*

(1) *Knowingly impeding the normal breathing or circulation of the blood by applying pressure on the throat, neck or chest of a person with whom the offender is involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting or angry manner; or*

(2) *knowingly impeding the normal breathing or circulation of the blood by blocking the nose or mouth of a person with whom the offender is involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting or angry manner.*

~~(b)(c)~~ (1) Domestic battery is:

~~(1)(A)~~ Except as provided in subsection ~~(b)(2)~~ (c)(1)(B) or ~~(b)(3)(c)(1)(C)~~, a class B person misdemeanor and the offender shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the offender to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;

~~(2)(B)~~ except as provided in subsection ~~(b)(3)(c)(1)(C)~~, a class A person misdemeanor, if, within five years immediately preceding commission of the crime, an offender is convicted of domestic battery a second time and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days imprisonment before the offender is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court ~~or department of corrections~~; and

~~(3)(C)~~ a person felony, if, within five years immediately preceding

commission of the crime, an offender is convicted of domestic battery a third or subsequent time, and the offender shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$7,500. The offender convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the offender has served at least 90 days imprisonment. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections. If the offender does not undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, the offender shall serve not less than 180 days nor more than one year's imprisonment. The 90 days imprisonment mandated by this paragraph may be served in a work release program only after such offender has served 48 consecutive hours imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program.

(2) *Aggravated domestic battery is a severity level 7, person felony.*

~~(c)~~(d) *In determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense under this section, a court shall consider information presented to the court relating to any current or prior protective order issued against such person.*

(e) *As used in this section:*

(1) *"Dating relationship" means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since the termination of the relationship, if applicable;*

(2) *"family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. "Family or household member" also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and*

(3) *"protective order" means:*

(A) *A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 or 60-3107, and amendments thereto;*

(B) a protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265;

(C) a restraining order issued pursuant to K.S.A. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607, prior to its transfer;

(D) an order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, postrelease supervision or at any other time during the criminal case or upon appeal that orders the person to refrain from having any direct or indirect contact with a family or household member;

(E) an order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person; or

(F) a protection from stalking order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.

~~(2)~~(f) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under ~~this section~~ subsection (c)(1):

~~(A)~~(1) “Conviction” includes being convicted of a violation of K.S.A. 21-3412a, prior to its repeal, this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

~~(B)~~(2) “conviction” includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

~~(C)~~(3) only convictions occurring in the immediately preceding five years including prior to July 1, 2001, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

~~(D)~~(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

~~(d)~~(g) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of ~~this section~~ subsection (a) or (b) or an ordinance of any city or resolution of any county which prohibits the acts that ~~this section~~ subsection (a) or (b) prohibits only twice during any five-year period.

Sec. 3. On and after July 1, 2017, K.S.A. 2016 Supp. 21-5709 is hereby amended to read as follows: 21-5709. (a) It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia



or phenylpropanolamine, or their salts, isomers or salts of isomers with an intent to use the product to manufacture a controlled substance.

(b) It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to:

(1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or distribute a controlled substance; or

(2) store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body.

(c) It shall be unlawful for any person to use or possess with intent to use anhydrous ammonia or pressurized ammonia in a container not approved for that chemical by the Kansas department of agriculture.

(d) It shall be unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period.

(e) (1) Violation of subsection (a) is a drug severity level 3 felony;

(2) violation of subsection (b)(1) is a:

(A) Drug severity level 5 felony, except as provided in subsection (e)(2)(B); and

(B) class ~~A~~ B nonperson misdemeanor if the drug paraphernalia was used to cultivate fewer than five marijuana plants;

(3) violation of subsection (b)(2) is a class ~~A~~ B nonperson misdemeanor;

(4) violation of subsection (c) is a drug severity level 5 felony; and

(5) violation of subsection (d) is a class A nonperson misdemeanor.

(f) For persons arrested and charged under subsection (a) or (c), bail shall be at least \$50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto, unless the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

Sec. 4. K.S.A. 2016 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 con-

veyance 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) 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) (i) Subsection (a)(1) ~~is~~ *is a severity level 7, person felony, except as provided in subsection (c)(1)(B);*

(ii) *subsection (a)(2) is a severity level 7, nonperson felony, except as provided in subsection (c)(1)(B); and*

~~(iii)~~ *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.

(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. 2016 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. 5. On and after July 1, 2017, K.S.A. 2016 Supp. 21-6412 is hereby amended to read as follows: 21-6412. (a) Cruelty to animals is:

(1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;

(2) knowingly abandoning any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, oppor-

tunity for exercise and other care as is needed for the health or well-being of such kind of animal;

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(5) knowingly but not maliciously killing or injuring any animal; or

(6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year’s imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year’s imprisonment and be fined not less than \$500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;

(4) rodeo practices accepted by the rodeo cowboys’ association;

(5) the humane killing of an animal ~~which~~ *that* is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, ~~pound~~ or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of ~~an incorporated humane society, the operator of an animal shelter or~~

~~pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;~~

(6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) the killing of any animal by any person at any time ~~which~~ *that* may be found outside of the owned or rented property of the owner or custodian of such animal and ~~which~~ *that* is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) laying an equine down for medical or identification purposes;

(10) normal or accepted practices of pest control, as defined in ~~sub-section (x) of K.S.A. 2-2438a(x)~~, and amendments thereto; or

(11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any ~~incorporated humane society~~, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, ~~which~~ *that* clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of ~~a duly incorporated humane society~~ *an animal shelter* or licensed veterinarian for treatment, boarding or other care or, if an officer of such ~~humane society~~ *animal shelter* or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. ~~If the animal is placed in the care of an animal shelter, the animal shelter shall notify~~ The owner or custodian, if known or reasonably ascertainable, *shall be notified in writing*. If the owner or custodian is charged with a violation of this section, ~~the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court to be allowed in the county in which the animal was taken into custody to place the animal for adoption or euthanize~~

*transfer ownership* of the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. ~~The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal transferred.~~

(f) The owner or custodian of an animal ~~placed for adoption or killed transferred~~ pursuant to subsection (e) shall not be entitled to recover damages for the ~~placement or killing transfer~~ of such animal unless the owner proves that such ~~placement or killing transfer~~ was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, ~~and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime,~~ such animal shall not be returned to or remain with such person. Such animal may be turned over to a ~~duly incorporated humane society~~ *an animal shelter* or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) “*Animal shelter*” means the same as such term is defined in K.S.A. 47-1701, and amendments thereto;

(2) “equine” means a horse, pony, mule, jenny, donkey or hinny; and

~~(2)~~(3) “maliciously” means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

Sec. 6. On and after July 1, 2017, K.S.A. 2016 Supp. 21-6414 is hereby amended to read as follows: 21-6414. (a) Unlawful conduct of dog fighting is:

(1) Causing, for amusement or gain, any dog to fight with or injure another dog, with no requirement of culpable mental state;

(2) knowingly permitting such fighting or injuring on premises under one’s ownership, charge or control; or

(3) training, owning, keeping, transporting or selling any dog with the intent of having it fight with or injure another dog.

(b) Unlawful possession of dog fighting paraphernalia is possession,

with the intent to use in the unlawful conduct of dog fighting, any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia.

(c) Unlawful attendance of dog fighting is, entering or remaining on the premises where the unlawful conduct of dog fighting is occurring, whether the person knows or has reason to know that dog fighting is occurring on the premises.

(d) (1) Unlawful conduct of dog fighting is a severity level 10, non-person felony.

(2) Unlawful possession of dog fighting paraphernalia is a class A non-person misdemeanor.

(3) Unlawful attendance of dog fighting is a class B nonperson misdemeanor.

(e) When a person is arrested under this section, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested for unlawful conduct of dog fighting, unlawful attendance of dog fighting, or unlawful possession of dog fighting paraphernalia.

(f) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of a ~~duly incorporated humane society~~ *an animal shelter* or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. The dog may be sedated, isolated or restrained if such officer, agent or veterinarian determines it to be in the best interest of the dog, other animals at the animal shelter or personnel of the animal shelter. ~~If the dog is placed in the care of an animal shelter, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby~~ *The law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court in the county in which the animal was taken into custody to be allowed to place the dog for adoption or euthanize transfer ownership of the dog at any time after 21 days after the dog is taken into custody, unless the owner or custodian of the dog files a renewable cash or performance bond with the county clerk of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal transferred.* Except as provided in subsection (g), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a

type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under this section or K.S.A. 2016 Supp. 21-6412, and amendments thereto. The owner or keeper of a dog ~~placed for adoption or humanely killed~~ *transferred* under this subsection shall not be entitled to damages unless the owner or keeper proves that such ~~placement or killing~~ *transfer* was unwarranted.

(g) If a person is convicted of unlawful conduct of dog fighting, unlawful attendance of dog fighting or unlawful possession of dog fighting paraphernalia, a dog taken into custody pursuant to subsection (e) shall not be returned to such person and the court shall order the owner or keeper to pay to the animal shelter *or licensed veterinarian* all expenses incurred for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to conviction of the owner or keeper. Disposition of such dog shall be in accordance with K.S.A. 2016 Supp. 21-6412, and amendments thereto. If no such conviction results, the dog shall be returned to the owner or keeper and the court shall order the county where the dog was taken into custody to pay to the *law enforcement agency, veterinarian or animal shelter* all expenses incurred ~~by the shelter~~ for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to its return.

(h) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.

(i) *As used in this section, "animal shelter" means the same as such term is defined in K.S.A. 47-1701, and amendments thereto.*

Sec. 7. On and after July 1, 2017, K.S.A. 2016 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

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

<b>LEGEND</b>
Presumptive 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. 2016 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. 2016 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, K.S.A. 2016 Supp. 21-5414(b)(3), K.S.A. 2016 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2016 Supp. 21-6412 and K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, K.S.A. 2016 Supp. 21-5414(b)(3), K.S.A. 2016 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2016 Supp. 21-6412 and K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 Supp. 21-5807(a)(1), and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2016 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. 2016 Supp. 21-5807(a)(1) or (a)(2), or K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 Supp. 21-5801, and amendments thereto, or burglary as defined in K.S.A. 2016 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. 2016 Supp. 21-5801, and amendments thereto, or burglary as defined in K.S.A. 2016 Supp. 21-5807(a), and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2016 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. 2016 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2016 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in K.S.A. 2016 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. 2016 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2016 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. 2016 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. 2016 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. 2016 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2016 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in K.S.A. 2016 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. 2016 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2016 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. 2016 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. 2016 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 *beyond a reasonable doubt* 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. 2016 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2016 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. 2016 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to com-

mit 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. 2016 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. 2016 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.

*(y) (1) Except as provided in subsection (y)(3), if the trier of fact makes a finding beyond a reasonable doubt that an offender committed a nondrug felony offense, or any attempt or conspiracy, as defined in K.S.A. 2016 Supp. 21-5301 and 21-5302, and amendments thereto, to commit a nondrug felony offense, against a law enforcement officer, as defined in K.S.A. 2016 Supp. 21-5111(p)(1) and (3), and amendments thereto, while such officer was engaged in the performance of such officer's duty, or in whole or in any part because of such officer's status as a law enforcement officer, the sentence for such offense shall be:*

*(A) If such offense is classified in severity level 2 through 10, one severity level above the appropriate level for such offense; and*

*(B) (i) if such offense is classified in severity level 1, except as otherwise provided in subsection (y)(1)(B)(ii), imprisonment for life, and such offender shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, such offender shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.*

*(ii) The provisions of subsection (y)(1)(B)(i) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the offender, because of the offender's criminal history classification, is subject to presumptive imprisonment and the sentencing range exceeds 300 months. In such case, the offender is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.*

*(2) The sentence imposed pursuant to subsection (y)(1) shall not be considered a departure and shall not be subject to appeal.*

*(3) The provisions of this subsection shall not apply to an offense*

*described in subsection (y)(1) if the factual aspect concerning a law enforcement officer is a statutory element of such offense.*

Sec. 8. On and after July 1, 2017, K.S.A. 2016 Supp. 22-2410 is hereby amended to read as follows: 22-2410. (a) (1) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

(2) (A) *If a person has been arrested in this state as a result of mistaken identity or as a result of another person using the identifying information of the named person, and the charge against the named person is dismissed or not prosecuted, the prosecuting attorney or other judicial officer who ordered the dismissal or declined to prosecute shall provide notice to the court of such action and petition the district court for the expungement of such arrest record, and the court shall order the arrest record and subsequent court proceedings, if any, expunged and purged from all applicable state and federal systems pursuant to subsection (d).*

(B) *For purposes of this section, the term “mistaken identity” means the erroneous arrest of a person for a crime as a result of misidentification by a witness or law enforcement, confusion on the part of a witness or law enforcement as to the identity of the person who committed the crime, misinformation provided to law enforcement as to the identity of the person who committed the crime or some other mistake on the part of a witness or law enforcement as to the identity of the person who committed the crime. “Mistaken identity” shall not include any situation in which an arrestee intentionally provides false information to law enforcement officials in an attempt to conceal such person’s identity.*

(b) (1) When a petition for expungement is filed pursuant to subsection (a)(1), 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. *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.*

(2) When a petition for expungement is filed pursuant to subsection (a)(1) or (a)(2), 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.

(3) (A) Except as otherwise provided by law, a petition for expungement pursuant to subsection (a)(1) 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.~~

(B) No surcharge or fee shall be imposed to any person filing a petition pursuant to ~~this section~~ *subsection (a)(1)*, 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. 2016 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.~~

- (4) The petition filed pursuant to subsection (a)(1) or (a)(2) shall state:*
- (A) The petitioner's full name;*
  - (B) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;*
  - (C) the petitioner's sex, race and date of birth;*
  - (D) the crime for which the petitioner was arrested;*
  - (E) the date of the petitioner's arrest; and*
  - (F) the identity of the arresting law enforcement agency.*

(c) At the hearing on a petition for expungement *pursuant to subsection (a)(1)*, 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) *(1)* When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, *on a petition for expungement pursuant to subsection (a)(1)*, 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 *pursuant to subsection (a)(1)* shall be treated as not having been arrested.

(2) *When the court has ordered expungement of arrest records on a petition for expungement pursuant to subsection (a)(2), the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (a)(2). The order shall also direct the Kansas bureau of investigation to purge the arrest information from the criminal justice information system central repository and all applicable state and federal databases. The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation, which shall carry out the order and shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency that may have a record of the arrest. If an order of expungement is entered, the person eligible for mandatory expungement pursuant to subsection (a)(2) shall be treated as not having been arrested.*

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes:

(1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services;

(2) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(3) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:

(1) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(2) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(g) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(h) Whenever a ~~petitioner's~~ *person'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 *pursuant to subsection (a)(1)* shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

Sec. 9. K.S.A. 22-3504 is hereby amended to read as follows: 22-3504.

(1) The court may correct an illegal sentence at any time. The defendant shall receive full credit for time spent in custody under the sentence prior to correction. *Unless the motion and the files and records of the case conclusively show that the defendant is entitled to no relief*, the defendant shall have a right to a hearing, after reasonable notice to be fixed by the court, to be personally present and to have the assistance of counsel in any proceeding for the correction of an illegal sentence.

(2) Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

(3) *"Illegal sentence" means a sentence: Imposed by a court without jurisdiction; that does not conform to the applicable statutory provision, either in character or punishment; or that is ambiguous with respect to the time and manner in which it is to be served at the time it is pro-*

*nounced. A sentence is not an “illegal sentence” because of a change in the law that occurs after the sentence is pronounced.*

Sec. 10. K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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 K.S.A. 2016 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. 2016 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. 2016 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 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. 2016 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. 2016 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. 2016 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, *committed on or after July 1, 1993, but prior to*

*July 1, 2006*, a sexually motivated crime in which the offender has been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2016 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2016 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. 2016 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. 2016 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 K.S.A. 21-4714(e), prior to its repeal, or K.S.A. 2016 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. 2016 Supp. 21-6817, and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A. 2016 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. 2016 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) (i) Except as provided in subsection (u), persons ~~convicted of sentenced to imprisonment~~ for a sexually violent crime committed on or after July 1, 2006, *when the offender was 18 years of age or older*, 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.

(ii) *Persons sentenced to imprisonment for a sexually violent crime committed on or after the effective date of this act, when the offender was under 18 years of age, and who are released from prison, shall be released to a mandatory period of postrelease supervision for 60 months, 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. 2016 Supp. 21-6821, and amendments thereto.*

(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 K.S.A. 22-3716(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to 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. 2016 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;

(D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its repeal, or K.S.A. 2016 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 K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 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. 2016 Supp. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 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. 2016 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. 2016 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 required 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 con-

ferencing 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 insuffi-

cient. 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 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 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.

(l) 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 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 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. 2016 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 K.S.A. 2016 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. 2016 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. 11. K.S.A. 22-3504 and K.S.A. 2016 Supp. 21-5807 and 22-3717 are hereby repealed.

Sec. 12. On and after July 1, 2017, K.S.A. 2016 Supp. 21-5414, 21-5709, 21-6412, 21-6414, 21-6804 and 22-2410 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 5, 2017.

Published in the *Kansas Register* May 18, 2017.

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## CHAPTER 63

HOUSE BILL No. 2098\*

AN ACT concerning wildlife, parks and tourism; relating to the mined land wildlife area.

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

Section 1. The bison herd at mined land wildlife area in Crawford county, Kansas, is hereby named the “Bob Grant bison herd.”

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

Approved May 10, 2017.

## CHAPTER 64

HOUSE BILL No. 2353

AN ACT concerning state contracts and purchases; relating to purchases of products and services from not-for-profit entities; employment of persons with disabilities; qualified vendors; amending K.S.A. 2016 Supp. 75-3317 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 75-3317 is hereby amended to read as follows: 75-3317. As used in K.S.A. 75-3317 through 75-3322, and amendments thereto, unless the context requires otherwise:

(a) “Director of purchases” means the director of purchases of the department of administration;

(b) “qualified vendor” means a not-for-profit entity incorporated in the state of Kansas that:

(1) ~~Primarily~~ ~~Employs~~ ~~the~~ ~~persons~~ ~~who~~ ~~are~~ ~~blind~~ ~~or~~ ~~disabled~~ ~~and~~ ~~who~~ ~~reside~~ ~~in~~ ~~Kansas~~. ~~Persons~~ ~~who~~ ~~are~~ ~~employed~~ ~~by~~ ~~a~~ ~~third-party~~ ~~entity~~ ~~other~~ ~~than~~ ~~the~~ ~~vendor~~ ~~are~~ ~~not~~ ~~employed~~ ~~by~~ ~~the~~ ~~vendor~~ ~~for~~ ~~purposes~~ ~~of~~ ~~this~~ ~~section~~;

(2) *does business primarily in Kansas or substantially all of its production in Kansas;*

(3) ~~is~~ ~~operated~~ ~~in~~ ~~the~~ ~~interest~~ ~~of~~ ~~and~~ ~~for~~ ~~the~~ ~~benefit~~ ~~of~~ ~~the~~ ~~persons~~ ~~who~~ ~~are~~ ~~blind~~ ~~or~~ ~~persons~~ ~~with~~ ~~have~~ ~~other~~ ~~severe~~ ~~disabilities~~, ~~or~~ ~~both~~;

~~(3)~~(4) ~~the~~ ~~net~~ ~~income~~ ~~of~~ ~~such~~ ~~entity~~ ~~shall~~ ~~not~~, ~~in~~ ~~whole~~ ~~or~~ ~~any~~ ~~part~~, ~~financially~~ ~~benefit~~ ~~any~~ ~~shareholder~~ ~~or~~ ~~other~~ ~~individual~~; ~~and~~

~~(4)~~(5) ~~such~~ ~~qualified~~ ~~vendor’s~~ ~~primary~~ ~~purpose~~ ~~shall~~ ~~be~~ ~~to~~ ~~provide~~ ~~employment~~ ~~for~~ ~~persons~~ ~~who~~ ~~are~~ ~~blind~~ ~~or~~ ~~have~~ ~~other~~ ~~severe~~ ~~disabilities~~;

(c) “state agency” means any state office or officer, department, board, commission, institution, bureau or any agency, division or any unit within an office, department, board, commission or other state authority;

(d) “unified school district” means any unified school district, board



of education or any purchasing cooperative formed by one or more unified school districts;

(e) “committee” means the state use law committee authorized pursuant to K.S.A. 2016 Supp. 75-3322c, and amendments thereto; ~~and~~

(f) “municipality” has the meaning ascribed thereto in K.S.A. 75-6102, and amendments thereto; *and*

(g) “persons who are disabled” means any person of employable age whose disability, whether physical or mental, congenital or acquired by accident, injury or disease, is a substantial barrier to employment.

Sec. 2. K.S.A. 2016 Supp. 75-3317 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 10, 2017.

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CHAPTER 65

HOUSE BILL No. 2356

AN ACT concerning state contracts and purchases; relating to competitive bids; bid preferences to certified businesses; recertification; amending K.S.A. 2016 Supp. 75-3740 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 75-3740 is hereby amended to read as follows: 75-3740. (a) Except as provided by K.S.A. 75-3740b, and amendments thereto, and subsections (b) and (k), all contracts and purchases made by or under the supervision of the director of purchases or any state agency for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(b) A contract shall be awarded to a certified business or disabled veteran business which is also a responsible bidder, whose total bid cost is not more than 10% higher than the lowest competitive bid. Such contract shall contain a promise by the certified business that the percentage of employees that are individuals with disabilities will be maintained throughout the contract term and a condition that the certified business shall not subcontract for goods or services in an aggregate amount of more than 25% of the total bid cost.

(c) The director of purchases shall have power to decide as to the lowest responsible bidder for all purchases, but if:

(1) (A) A responsible bidder purchases from a qualified vendor goods or services on the list certified by the director of purchases pursuant to

K.S.A. 75-3317 et seq., and amendments thereto, the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such bidder; or

(B) a responsible bidder purchases from a certified business the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such bidder;

(2) the dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible bidder from without the state, the contract shall be awarded to the bidder from within the state; and

(3) in the case of bids for paper products specified in K.S.A. 75-3740b, and amendments thereto, the dollar amounts of the bids received from two or more lowest responsible bidders are identical, the contract shall be awarded to the bidder whose bid is for those paper products containing the highest percentage of recycled materials.

(d) Any or all bids may be rejected, and a bid shall be rejected if it contains any material alteration or erasure made after the bid is opened. The director of purchases may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state. The secretary of revenue is hereby authorized to exchange such information with the director of purchases as is necessary to effectuate the preceding sentence notwithstanding any other provision of law prohibiting disclosure of the contents of taxpayer records or information. Prior to determining the lowest responsible bidder on contracts for construction of buildings or for major repairs or improvements to buildings for state agencies, the director of purchases shall consider: (1) The criteria and information developed by the secretary of administration, with the advice of the state building advisory commission to rate contractors on the basis of their performance under similar contracts with the state, local governmental entities and private entities, in addition to other criteria and information available; and (2) the recommendations of the project architect, or, if there is no project architect, the recommendations of the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, and amendments thereto. In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law or the state agency elects not to proceed with the procurement.

(e) Before the awarding of any contract for construction of a building

or the making of repairs or improvements upon any building for a state agency, the director of purchases shall receive written approval from the state agency for which the building construction project has been approved, that the bids generally conform with the plans and specifications prepared by the project architect, by the secretary of administration or by the agency architect for the project, as the case may be, so as to avoid error and mistake on the part of the contractors. In all cases where material described in a contract can be obtained from any state institution, the director of purchases shall exclude the same from the contract.

(f) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the director of purchases for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection at all reasonable times.

(g) As used in this section:

(1) “Certified business” means any business certified ~~annually~~ *as provided by subsection (l)* by the department of administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that:

(A) Does business primarily in Kansas or substantially all of its production in Kansas;

(B) employs at least 10% of its employees who are individuals with disabilities and reside in Kansas;

(C) offers to contribute at least 75% of the premium cost for individual health insurance coverage for each employee. The department of administration shall require a certification of these facts as a condition to the certified business being awarded a contract pursuant to subsection (b); and

(D) does not employ individuals under a certificate issued by the United States secretary of labor under ~~subsection (c) of~~ 29 U.S.C. § 214(c);

(2) “individuals with disabilities” or “individual with a disability” means any individual who:

(A) Is certified by the Kansas department for aging and disability services *or by the Kansas department for children and families which administers the rehabilitation services program* as having a physical or mental impairment which constitutes a substantial barrier to employment;

(B) works a minimum number of hours per week for a certified business necessary to qualify for health insurance coverage offered pursuant to subsection (g)(1); and

(C) (i) is receiving services, has received services or is eligible to receive services under a home and community based services program, as defined by K.S.A. 39-7,100, and amendments thereto;

(ii) is employed by a charitable organization domiciled in the state of Kansas and exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended; or

(iii) is an individual with a ~~severe and persistent mental illness, as determined by a clinical or functional assessment approved by the Kansas department for aging and disability services~~ *disability pursuant to the disability standards established by the social security administration as determined by the Kansas disability determination services under the Kansas department for children and families;*

(3) “physical or mental impairment” means:

(A) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss substantially affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine; or

(B) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, mental illness and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis and intellectual disability; and

(4) “project architect” shall have the meaning ascribed thereto in K.S.A. 75-1251, and amendments thereto;

(5) “disabled veteran” means a person verified by the Kansas commission on veterans affairs office to have served in the armed forces of the United States and who is entitled to compensation for a service-connected disability, according to the laws administered by the veterans administration, or who is entitled to compensation for the loss, or permanent loss of use, of one or both feet or one or both hands, or for permanent visual impairment of both eyes to a prescribed degree;

(6) “disabled veteran business” means a business certified annually by the department of administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, and is verified by the commission on veterans affairs office that:

(A) Not less than 51% is owned by one or more disabled veterans or, in the case of a publicly owned business, not less than 51% of the stock owned by one or more disabled veterans;

(B) the management and daily business operations are controlled by one or more disabled veterans; and

(C) such business maintains the requirements of subparagraphs (A) and (B) during the entire contract term.

(h) Any state agency authorized by the director of purchases to make purchases pursuant to ~~subsection (e) of~~ K.S.A. 75-3739(e), and amend-

ments thereto, shall consider any unsolicited proposal for goods or services under this section.

(i) The secretary of administration and the secretary for aging and disability services, jointly, shall adopt rules and regulations as necessary to effectuate the purpose of this section.

(j) On and after January 13, 2014, at the beginning of each regular session of the legislature, the secretary of administration and the secretary for aging and disability services shall submit to the social services budget committee of the house of representatives and the appropriate subcommittee of the committee on ways and means of the senate, a written report on:

(1) The number of certified businesses certified by the department of administration during the previous fiscal year;

(2) the number of certified businesses awarded contracts pursuant to subsection (b) during the previous fiscal year;

(3) the number of contracts awarded pursuant to subsection (b) to each certified business during the previous fiscal year;

(4) the number of individuals with disabilities removed from, reinstated to or not reinstated to home and community based services or other medicaid program services during the previous fiscal year as a result of employment with a certified business;

(5) the number of individuals employed by each certified business during the previous fiscal year; and

(6) the number of individuals with disabilities employed by each certified business during the previous fiscal year.

(k) When a state agency is receiving bids to purchase passenger motor vehicles, such agency shall follow the procedures prescribed in subsection (c)(2), except in the case where one of the responsible bidders offers motor vehicles which are assembled in Kansas. In such a case, 3% of the bid of the responsible bidder which offers motor vehicles assembled in Kansas shall be subtracted from the bid amount, and that amount shall be used to determine the lowest bid pursuant to subsection (c)(2). This subsection shall only apply to bids which match the exact motor vehicle specifications of the agency purchasing passenger motor vehicles.

(l) *The secretary of administration shall certify that a business meets the requirements for a certified business as defined in subsection (g), and shall recertify such business as having met such requirements every three years thereafter. Businesses already certified for 2017 as provided in this section on July 1, 2017, shall be recertified every three years thereafter.*

Sec. 2. K.S.A. 2016 Supp. 75-3740 is hereby repealed.

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

## CHAPTER 66

House Substitute for SENATE BILL No. 101  
(Amended by Chapter 100)

AN ACT concerning crime victims; relating to protection orders; protection from abuse act; protection from stalking act; sexual assault evidence collection examinations and parental notification; infectious disease testing; the crime victims compensation board and claims for compensation; amending K.S.A. 60-3102, 60-31a01, 60-31a03, 60-31a07, 60-31a08, 60-31a09 and 65-6009 and K.S.A. 2016 Supp. 21-5924, 60-31a02, 60-31a04, 60-31a05, 60-31a06, 65-448 and 74-7305 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 21-5924 is hereby amended to read as follows: 21-5924. (a) Violation of a protective order is knowingly violating:

(1) A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 or 60-3107, and amendments thereto;

(2) a protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265, and amendments thereto;

(3) a restraining order issued pursuant to K.S.A. 2016 Supp. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607, prior to its transfer;

(4) an order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, postrelease supervision or at any other time during the criminal case that orders the person to refrain from having any direct or indirect contact with another person;

(5) an order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person; or

(6) a protection from stalking *or sexual assault* order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.

(b) (1) Violation of a protective order is a class A person misdemeanor, except as provided in subsection (b)(2).

(2) Violation of an extended protective order as described in ~~subsection (c)(2) of~~ K.S.A. 60-3107(e)(2), and amendments thereto, and ~~subsection (d) of~~ K.S.A. 60-31a06(d), and amendments thereto, is a severity level 6, person felony.

(c) No protective order, as set forth in this section, shall be construed to prohibit an attorney, or any person acting on such attorney's behalf, who is representing the defendant in any civil or criminal proceeding, from contacting the protected party for a legitimate purpose within the scope of the civil or criminal proceeding. The attorney, or person acting on such attorney's behalf, shall be identified in any such contact.

(d) As used in this section, "order" includes any order issued by a municipal or district court.

Sec. 2. K.S.A. 60-3102 is hereby amended to read as follows: 60-3102. As used in the protection from abuse act:

(a) “Abuse” means the occurrence of one or more of the following acts between intimate partners or household members:

(1) Intentionally attempting to cause bodily injury, or intentionally or recklessly causing bodily injury.

(2) Intentionally placing, by physical threat, another in fear of imminent bodily injury.

(3) *Engaging in any sexual contact or attempted sexual contact with another person without consent or when such person is incapable of giving consent.*

(4) Engaging in any of the following acts with a minor under 16 years of age who is not the spouse of the offender:

(A) The act of sexual intercourse; or

(B) any lewd fondling or touching of the person of either the minor or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the minor or the offender, or both.

(b) “Intimate partners or household members” means persons who are or have been in a dating relationship, persons who reside together or who have formerly resided together or persons who have had a child in common.

(c) “Dating relationship” means a social relationship of a romantic nature. A dating relationship shall be presumed if a plaintiff verifies, pursuant to K.S.A. 53-601, and amendments thereto, that such relationship exists. In addition to any other factors the court deems relevant, the court shall consider the following factors in making a determination of whether a relationship exists or existed include:

(1) Nature of the relationship;

(2) length of time the relationship existed;

(3) frequency of interaction between the parties; and

(4) time since termination of the relationship, if applicable.

Sec. 3. K.S.A. 60-31a01 is hereby amended to read as follows: 60-31a01. (a) K.S.A. 60-31a01 through 60-31a09, and amendments thereto, shall be known and may be cited as the protection from stalking *or sexual assault* act.

(b) This act shall be liberally construed to protect victims of stalking *and sexual assault* and to facilitate access to judicial protection for stalking *and sexual assault* victims, whether represented by counsel or proceedings pro se.

Sec. 4. K.S.A. 2016 Supp. 60-31a02 is hereby amended to read as follows: 60-31a02. As used in the protection from stalking *or sexual assault* act:

(a) “Sexual assault” means:

(1) A nonconsensual sexual act; or

(2) *an attempted sexual act against another by force, threat of force, duress or when the person is incapable of giving consent.*

(b) “Stalking” means an intentional harassment of another person that places the other person in reasonable fear for that person’s safety.

~~(b)~~(c) “Harassment” means a knowing and intentional course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose. “Harassment” shall include any course of conduct carried out through the use of an unmanned aerial system over or near any dwelling, occupied vehicle or other place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

~~(c)~~(d) “Course of conduct” means conduct consisting of two or more separate acts over a period of time, however short, evidencing a continuity of purpose which would cause a reasonable person to suffer substantial emotional distress. Constitutionally protected activity is not included within the meaning of “course of conduct.”

~~(d)~~(e) “Unmanned aerial system” means a powered, aerial vehicle that:

- (1) Does not carry a human operator;
- (2) uses aerodynamic forces to provide vehicle lift;
- (3) may fly autonomously or be piloted remotely;
- (4) may be expendable or recoverable; and
- (5) may carry a lethal or nonlethal payload.

Sec. 5. K.S.A. 60-31a03 is hereby amended to read as follows: 60-31a03. The district courts shall have jurisdiction over all proceedings under the protection from stalking *or sexual assault* act.

Sec. 6. K.S.A. 2016 Supp. 60-31a04 is hereby amended to read as follows: 60-31a04. (a) A person may seek relief under the protection from stalking *or sexual assault* act by filing a verified petition with any district judge or clerk of the court. A verified petition must allege facts sufficient to show the following:

- (1) The name of the stalking *or sexual assault* victim;
- (2) the name of the defendant;
- (3) the dates on which the alleged stalking *or sexual assault* behavior occurred; and
- (4) the acts committed by the defendant that are alleged to constitute stalking *or sexual assault*.

(b) A parent or an adult residing with a minor child may seek relief under the protection from stalking *or sexual assault* act on behalf of the minor child by filing a verified petition with the district judge or with the clerk of the court in the county where the stalking *or sexual assault* occurred.

(c) The clerk of the court shall supply the forms for the petition and orders, which shall be prescribed by the judicial council.



(d) Service of process served under this section shall be by personal service. No docket fee shall be required for proceedings under the protection from stalking *or sexual assault* act.

(e) The victim's address and telephone number shall not be disclosed to the defendant or to the public, but only to authorized court or law enforcement personnel and to 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.

Sec. 7. K.S.A. 2016 Supp. 60-31a05 is hereby amended to read as follows: 60-31a05. (a) Within 21 days of the filing of a petition under the protection from stalking *or sexual assault* act a hearing shall be held at which the plaintiff must prove the allegation of stalking *or sexual assault* by a preponderance of the evidence and the defendant shall have an opportunity to present evidence on the defendant's behalf. Upon the filing of the petition, the court shall set the case for hearing. At the hearing, the court shall advise the parties of the right to be represented by counsel.

(b) Prior to the hearing on the petition and upon a finding of good cause shown, the court on motion of a party may enter such temporary relief orders in accordance with K.S.A. 60-31a06, and amendments thereto, or any combination thereof, as it deems necessary to protect the victim from being stalked. Temporary orders may be granted ex parte on presentation of a verified petition by the victim supporting a prima facie case of stalking *or sexual assault*.

(c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

Sec. 8. K.S.A. 2016 Supp. 60-31a06 is hereby amended to read as follows: 60-31a06. (a) The court may issue a protection from stalking *or sexual assault* order granting any *one or more* of the following orders:

(1) Restraining the defendant from following, harassing, telephoning, contacting or otherwise communicating with the victim. Such order shall contain a statement that if such order is violated such violation may constitute stalking as defined in K.S.A. 2016 Supp. 21-5427, and amendments thereto, and violation of a protective order as defined in K.S.A. 2016 Supp. 21-5924, and amendments thereto.

(2) Restraining the defendant from abusing, molesting or interfering with the privacy rights of the victim. Such order shall contain a statement that if such order is violated, such violation may constitute stalking as defined in K.S.A. 2016 Supp. 21-5427, and amendments thereto, assault as defined in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5412(a), and amendments thereto, battery as defined in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5413(a), and amendments thereto, and violation of a protective order as defined in K.S.A. 2016 Supp. 21-5924, and amendments thereto.

(3) Restraining the defendant from entering upon or in the victim's residence or the immediate vicinity thereof. Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as defined in ~~subsection (a)(1)(C) of~~ K.S.A. 2016 Supp. 21-5808(a)(1)(C), and amendments thereto, and violation of a protective order as defined in K.S.A. 2016 Supp. 21-5924, and amendments thereto.

(4) *Restraining the defendant from committing or attempting to commit a sexual assault upon the victim. Such order shall contain a statement that if such order is violated, such violation shall constitute violation of a protective order, as defined in K.S.A. 2016 Supp. 21-5924, and amendments thereto. Such order shall also contain a statement that if such order is violated, such violation may constitute a sex offense under article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and the accused may be prosecuted, convicted of and punished for such sex offense.*

(5) Any other order deemed necessary by the court to carry out the provisions of this act.

(b) A protection from stalking *or sexual abuse* order shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed one year except as provided in ~~subsection subsections (c) and (d).~~

(c) Upon motion of the plaintiff the court may extend the order for an additional year.

(d) Upon verified motion of the plaintiff and after the defendant has been personally served with a copy of the motion and has had an opportunity to present evidence and cross-examine witnesses at a hearing on the motion, *the court shall extend a protective order for not less than two additional years and up to a period of time not to exceed the lifetime of the defendant*, if the court determines by a preponderance of the evidence that the defendant has: (1) Violated a valid protection order ~~or (A) Has~~; (2) previously violated a valid protection order; ~~or (B) has~~ (3) been convicted of a person felony or any conspiracy, criminal solicitation or attempt thereof, under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, committed against the plaintiff or any member of the plaintiff's household, ~~the court shall extend a protective order for not less than two additional years and up to a period of time not to exceed the lifetime of the defendant.~~ No service fee shall be required for a motion filed pursuant to this subsection.

(e) The court may amend its order at any time upon motion filed by either party.

(f) The court shall assess costs against the defendant and may award attorney fees to the victim in any case in which the court issues a protection from stalking *or sexual assault* order pursuant to this act. The court may award attorney fees to the defendant in any case where the court finds that the petition to seek relief pursuant to this act is without merit.

(g) A no contact or restraining provision in a protective order issued pursuant to this section shall not be construed to prevent:

- (1) Contact between the attorneys representing the parties;
- (2) a party from appearing at a scheduled court or administrative hearing; or
- (3) a defendant or defendant's attorney from sending the plaintiff copies of any legal pleadings filed in court relating to civil or criminal matters presently relevant to the plaintiff.

Sec. 9. K.S.A. 60-31a07 is hereby amended to read as follows: 60-31a07. A copy of any order under the protection from stalking *or sexual assault* act shall be issued to the victim, the defendant and the police department of the city where the victim resides. If the victim does not reside in a city or resides in a city with no police department, a copy of the order shall be issued to the sheriff of the county where the order is issued.

Sec. 10. K.S.A. 60-31a08 is hereby amended to read as follows: 60-31a08. Except ~~of~~ *as* otherwise provided in the protection from stalking *or sexual assault* act, any proceedings under this act shall be in accordance with chapter 60 of the Kansas Statutes Annotated, *and amendments thereto*, and shall be in addition to any other available civil or criminal remedies.

Sec. 11. K.S.A. 60-31a09 is hereby amended to read as follows: 60-31a09. If upon hearing, the court finds a violation of any order under the protection from stalking *or sexual assault* act, the court may find the defendant in contempt pursuant to K.S.A. 20-1204a, and amendments thereto.

Sec. 12. K.S.A. 2016 Supp. 65-448 is hereby amended to read as follows: 65-448. (a) Upon the request of any law enforcement officer and with the written consent of the reported victim, or upon the request of the victim, any physician, a licensed physician assistant, who has been specially trained in performing sexual assault evidence collection, or a registered professional nurse, who has been specially trained in performing sexual assault evidence collection, on call or on duty at a medical care facility of this state, as defined by ~~subsection (h)~~ of K.S.A. 65-425(h), and amendments thereto, shall examine persons who may be victims of sexual offenses cognizable as violations of K.S.A. 2016 Supp. 21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto, using Kansas bureau of investigation sexual assault evidence collection kits or similar kits approved by the Kansas bureau of investigation, for the purposes of gathering evidence of any such crime. If an examination has taken place solely upon the request of the victim, the medical care facility shall not notify any law enforcement agency without the written consent of the victim, unless otherwise required by law. If the physician, licensed physician assistant or registered professional nurse refuses to perform such physical

examination the prosecuting attorney is hereby empowered to seek a mandatory injunction against such physician, licensed physician assistant or registered professional nurse to enforce the provisions of this act. Any refusal by a physician, licensed physician assistant or registered professional nurse to perform an examination which has been requested pursuant to this section shall be reported by the county or district attorney to the state board of healing arts or the board of nursing, whichever is applicable, for appropriate disciplinary action. The department of health and environment, in cooperation with the Kansas bureau of investigation, shall establish procedures for gathering evidence pursuant to this section. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The hospital or medical facility shall give written notice to the parent or guardian of a minor that such an examination has taken place, *except when: (1) The hospital or medical facility has information that a parent, guardian or family or household member is the subject of a related criminal investigation; or (2) the physician, licensed physician assistant or registered professional nurse, after consultation with law enforcement, reasonably believes that the child will be harmed if such notice is given.*

(b) All sexual assault kits collected that are not released to law enforcement shall be sealed by either the sexual assault nurse examiner program or the facility that provided the examination and kept for five years in the evidence storage facilities of the Kansas bureau of investigation. After five years, such kits shall be destroyed by the Kansas bureau of investigation.

(c) The fee chargeable for conducting an examination of a victim as herein provided shall be established by the department of health and environment. Such fee, including the cost of the sexual assault evidence collection kit shall be charged to and paid by the county where the alleged offense was committed, and refusal of the victim to report the alleged offense to law enforcement shall not excuse or exempt the county from paying such fee. The fee for conducting an examination of a victim as herein provided shall not be charged or billed to the victim or to the victim's insurance carrier. Such county shall be reimbursed such fee upon the costs being paid by the defendant as court costs assessed pursuant to K.S.A. 28-172a, and amendments thereto.

(d) No medical care facility shall incur any civil, administrative or criminal liability as a result of notifying or failing to notify any law enforcement agency if an examination has taken place solely upon the request of the victim and such notification is not otherwise required by law.

(e) The Kansas bureau of investigation may adopt rules and regulations as deemed necessary to implement the provisions of this section.

Sec. 13. K.S.A. 65-6009 is hereby amended to read as follows: 65-

6009. (a) At the time of an appearance before a magistrate under K.S.A. 22-2901, and amendments thereto, the magistrate shall inform any person arrested and charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved of the availability of infectious disease tests and shall cause the alleged victim of such a crime, if any, to be notified that infectious disease tests and counseling are available. If the victim of the crime or the county or district attorney requests the court to order infectious disease tests of the alleged offender or if the person arrested and charged with a crime stated to the law enforcement officer making such arrest that the person arrested and charged with the crime has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the arrested person to submit to infectious disease tests. *Testing for infectious disease shall occur not later than 48 hours after the alleged offender appears before a magistrate under K.S.A. 22-2901, and amendments thereto.* The results of any test obtained under this section shall be inadmissible in any criminal or civil proceeding. *The court shall also order the arrested person to submit to follow-up tests for infectious diseases as may be medically appropriate.*

(b) Upon conviction of a person for any crime which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court: (1) May order the convicted person to submit to infectious disease tests; or (2) shall order the convicted person to submit to infectious disease tests if the victim of the crime or the parent or legal guardian of the victim, if the victim is a minor, requests the court to issue such order. If infectious disease tests are ordered under this subsection, the victim of the crime, if any, who is not a minor, shall designate a health care provider or counselor to receive such information on behalf of the victim. If the victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive such information.

(c) The results of any infectious disease test ordered under subsection (a) shall be disclosed to the law enforcement officer making such arrest, the person arrested, *the victim, the parent or legal guardian of the victim* and such other persons as the court determines have a legitimate need to know the test result in order to provide for their protection. The results of any infectious disease test ordered under subsection (b) shall be disclosed to the court which ordered the test, the convicted person and to the person designated under subsection (b) by the victim or victims of the crime or by the parent or legal guardian of a victim if the victim is a minor. If an infectious disease test ordered under this section results in a positive reaction, the results shall be reported to the secretary of health and environment and to the secretary of corrections.

(d) As used in this section, infectious disease includes HIV and hepatitis B.

(e) The costs of any counseling and testing provided under this section shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.

Sec. 14. K.S.A. 2016 Supp. 74-7305 is hereby amended to read as follows: 74-7305. (a) An application for compensation shall be made in the manner and form prescribed by the board.

(b) Compensation may not be awarded unless an application has been filed with the board within two years of the reporting of the incident to law enforcement officials if the victim was less than 16 years of age and the injury or death is the result of any of the following crimes: (1) Indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto; (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto; (4) enticement of a child as defined in K.S.A. 21-3509, prior to its repeal; (5) indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto; (6) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto; (8) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto; (9) human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto; (10) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments thereto; or (11) commercial sexual exploitation of a child as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto. Compensation for mental health counseling may be awarded; if a claim is filed within two years of: (1) Testimony, to a claimant who is, or will be, required to testify in a sexually violent predator commitment, pursuant to article 29a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, of an offender who victimized the claimant or the victim on whose behalf the claim is made; or (2) notification, to a claimant who is notified that DNA testing of a sexual assault kit or other evidence has revealed a DNA profile of a suspected offender who victimized the claimant or the victim on whose behalf the claim is made, or is notified of the identification of a suspected offender who victimized the claimant or the victim on whose behalf the claim is

*made, whichever occurs later.* For all other incidents of criminally injurious conduct, compensation may not be awarded unless the claim has been filed with the board within two years after the injury or death upon which the claim is based. Compensation may not be awarded to a claimant who was the offender or an accomplice of the offender and may not be awarded to another person if the award would unjustly benefit the offender or accomplice.

(c) Compensation otherwise payable to a claimant shall be reduced or denied, to the extent, if any that the:

(1) Economic loss upon which the claimant's claim is based is recouped from other persons, including collateral sources;

(2) board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims; or

(3) board deems reasonable, because the victim was likely engaging in, or attempting to engage in, unlawful activity at the time of the crime upon which the claim for compensation is based. This subsection shall not be construed to reduce or deny compensation to a victim of domestic abuse or sexual assault.

(d) Compensation may be awarded only if the board finds that unless the claimant is awarded compensation the claimant will suffer financial stress as the result of economic loss otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain the claimant's customary level of health, safety and education for self and dependents without undue financial hardship. In making its determination of financial stress, the board shall consider all relevant factors, including:

(1) The number of claimant's dependents;

(2) the usual living expenses of the claimant and the claimant's family;

(3) the special needs of the claimant and the claimant's dependents;

(4) the claimant's income and potential earning capacity; and

(5) the claimant's resources.

(e) Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within 72 hours after its occurrence or the board finds there was good cause for the failure to report within that time.

(f) The board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

(g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or K.S.A. 2016 Supp. 21-5604, and amendments thereto, or cases of sex offenses established 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. 2016 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. 2016 Supp. 21-5426, and amendments thereto, compensation may not be awarded if the economic loss is less than \$100.

(h) Compensation for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss may not exceed \$400 per week or actual loss, whichever is less.

(i) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed \$25,000 in the aggregate.

Sec. 15. K.S.A. 60-3102, 60-31a01, 60-31a03, 60-31a07, 60-31a08, 60-31a09 and 65-6009 and K.S.A. 2016 Supp. 21-5924, 60-31a02, 60-31a04, 60-31a05, 60-31a06, 65-448 and 74-7305 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 10, 2017.

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## CHAPTER 67

### HOUSE BILL No. 2096

AN ACT concerning roads and highways; allowing transit buses to operate on certain right shoulders; designating a portion of United States highway 75 as the Eldon K Miller memorial highway; amending K.S.A. 2016 Supp. 68-1051 and 75-5091 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 75-5091 is hereby amended to read as follows: 75-5091. (a) The secretary of transportation may authorize transit buses to be operated upon the right shoulders of city connecting links and other highways in the state highway system in Johnson ~~county~~ and Wyandotte counties.

(b) Transit buses shall be authorized to be operated upon shoulders under subsection (a), only if the speed of traffic on such connecting link or highway has been reduced to less than 35 miles per hour.

(c) Drivers of transit buses being operated upon the shoulder under this section shall:

- (1) Not exceed the traffic speed by more than 10 miles per hour; and
- (2) yield to merging, entering and exiting traffic and to other vehicles on the shoulder.

(d) The secretary of transportation shall adopt such rules and regulations necessary to implement the provisions of this section, including any requirements for highway signage.

(e) ~~Annually, prior to the 10<sup>th</sup> day of each regular session of the legislature,~~ The secretary of transportation and persons designated by the board of county commissioners of Johnson ~~county~~ and Wyandotte coun-



*ties* shall report to the legislature *on or before March 1, in 2018, 2019 and 2020*, concerning the implementation and operation of the program authorized by this section.

New Sec. 2. The portion of United States highway 75 from the northern border of Woodson county, then south on United States highway 75 to the northern city limits of the city of Yates Center is hereby designated as the Eldon K Miller memorial highway. Upon compliance with K.S.A. 2016 Supp. 68-10,114, and amendments thereto, the secretary of transportation shall place highway signs along the highway right-of-way at proper intervals to indicate that the highway is the Eldon K Miller memorial highway.

Sec. 3. K.S.A. 2016 Supp. 68-1051 is hereby amended to read as follows: 68-1051. The portion of United States highway 75 where it enters the state on the Kansas-Nebraska border on the north then south to the junction with K-9, then south from the junction of K-9 with K-62 to the junction of K-62 with K-16 then east to the junction with United States highway 75 then south on United States highway 75 to the southern city limits of Holton, then from the junction of United States highway 75 and N.W. 46<sup>th</sup> street in Shawnee county then south on United States highway 75 to the southern boundary of Osage county, then from the northern ~~boundary of Woodson county~~ *city limits of the city of Yates Center* south on United States highway 75 to *the* northern interchange with United States highway 400, then south from the southern interchange with United States highway 400 to the Kansas-Oklahoma border, is hereby designated the purple heart/combat wounded veterans highway. The secretary of transportation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the purple heart/combat wounded veterans highway. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs bearing the proper approved inscription.

Sec. 4. K.S.A. 2016 Supp. 68-1051 and 75-5091 are hereby repealed.

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

Approved May 10, 2017.

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## CHAPTER 68

SENATE BILL No. 205  
(Amended by Chapter 87)

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; participating service credit; providing certain death benefits to surviving spouses; exempting state board of regents retirement plan members from certain employment after retirement provisions; determining actuarial equivalent or actuarial computation interest factor; amending K.S.A. 74-4913, 74-4956 and 74-4959 and K.S.A. 2016 Supp. 74-4914 and 74-49,123 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 74-4914f.

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

Section 1. K.S.A. 74-4913 is hereby amended to read as follows: 74-4913. (1) Prior service shall be credited as follows:

(a) A member shall receive full credit for continuous employment prior to the entry date with such member's employer on the entry date. If the employee was also employed on March 15 of the year immediately preceding the entry date of that employer, then all such previous employment, whether or not continuous, shall be credited; otherwise no credit shall be granted for employment prior to a break in continuous employment. Any member or retirant who was employed by any participating employer on March 15 of the year immediately preceding the entry date of that employer, may apply to the board on such forms as it may prescribe for prior service credit with a participating employer other than the member's entry date employer. Upon receipt of written verification of such employment from the participating employer, the board shall grant such additional prior service credit and with respect to a retirant, shall adjust the amount of the retirement benefit accordingly commencing with the next monthly benefit payment due following receipt of the written verification, except that such retirant shall not be entitled to any retroactive adjustment in the amount of such retirement benefit as a result of the board granting such additional prior service credit. In the case of any person other than a retirant receiving a retirement benefit, such person may make application for an adjustment in the benefit amount in the same manner as a member or retirant, and in such case the adjustment in the benefit amount shall be determined by the board upon the advice of the actuary, and shall commence with the next monthly benefit payment due following receipt of the written verification;

(b) leaves of absence and military service shall not be counted as breaks in continuous employment; however, military service which is immediately preceded and followed by employment with a participating employer shall be credited, except that after July 1, 1974, not more than five years' credit for military service shall be granted hereunder to the extent required under USERRA, but leaves of absence shall not be credited;

(c) any member who was employed in the Kansas state employment

service, now a section of the Kansas division of employment security, during any of the time the Kansas state employment service was loaned by the state to the federal government (January 1, 1942, for the duration of the emergency period of world war II, which service was returned to the state by the federal government effective November 16, 1946) shall be entitled to prior service credit for the time so employed during the period stated for any service rendered under the jurisdiction of the United States employment service for the federal government in like manner as if the employment service had remained under the jurisdiction of the state of Kansas;

(d) any member who is not otherwise eligible for service credit as provided for in subsection (1)(a) may be granted credit for the service upon the attainment of 38 quarters of participating service;

(e) any member who was employed by the university of Wichita prior to July 1, 1964, shall be entitled to prior service credit for such time of employment under the Kansas public employees retirement system, when such employment is not the basis for other pension rights.

(2) Participating service shall be credited as follows: (a) A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the board of trustees, ~~except that~~ *Any member employed as a fireman or policeman, as described in K.S.A. 74-4952(11) and (12), who is away from work or normal duties while in a paid status authorized and approved by a participating employer on and after July 1, 2014, including, without limitation, any administrative leave with pay and any paid vacation leave, sick leave, personal leave, worker's compensation leave, light duty or temporary duty assignment, shall constitute participating service and any member shall receive full credit for such participating service with a participating employer for any such period of time away from work or normal duties. If the member does not return to work for the participating employer in the same or a similar position at the conclusion of such leave, except for reasons of death or disability, the period of the leave shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer unless otherwise provided herein. In the case of a decision to voluntarily terminate employment, the period of leave exceeding 365 days shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer. However, no more than one calendar quarter of participating service shall be credited for any employment within any one calendar quarter;*

(b) leaves of absence and military service shall not count as a break in continuous employment. In the case of a leave of absence, the member shall leave such member's accumulated contribution on deposit with the fund; however, the period of military service shall be credited, except that

after July 1, 1974, not more than five years' credit for military service shall be granted hereunder to the extent required under USERRA, but leaves of absence shall not be credited. Employees who enter the military service from their employment after the employer's entry date and who have not completed one year of service at the time of their entry into the military service, shall not become members of the retirement system until they return to the employment of that or another participating employer. In the case of such employee whose combined public employment and military service does not equal one year at the time of such employee's return to employment, the date of membership shall be the first day of the payroll period coinciding with or following the completion of one combined public employment and military year of service. Such service shall be granted in accordance with this section;

(c) a period of retirement under the system or a period of total disability, immediately followed by employment with a participating employer, shall not count as a break in continuous employment, except that such periods while not employed shall not be credited as participating service;

(d) termination of employment, followed by employment with a participating employer within five years after such termination, does not constitute a break in continuous employment if such person has not withdrawn such person's accumulated contribution. Such period while not employed shall not be credited as participating service.

(3) In determining the number of years of credited prior service or participating service a fractional year of six months or more shall be considered as one year and a fractional year of less than six months shall be disregarded.

Sec. 2. K.S.A. 74-4956 is hereby amended to read as follows: 74-4956.

(1) Prior service shall be credited as follows:

(a) Each member shall receive:

(i) Full credit for all employment, whether or not continuous, as either a policeman or fireman prior to the entry date with such member's employer who is such member's employer on the entry date;

(ii) full credit for all employment, whether or not continuous, as either a police or fireman prior to the entry date of such police or firemen's employer, with a participating employer, if such member has at least 20 years of credited service; and

(iii) for all continuous employment with the same employer other than either as policeman or fireman, immediately preceding such service as a policeman or fireman, one month of credit for each two months of service. Any member or retirant who has been credited with prior service as provided in this section may apply to the board on such forms as the board prescribes for prior service credit with a participating employer under the Kansas police and firemen's retirement system other than such

member's entry date employer. Each member shall receive full credit for all employment as either a policeman or fireman with such other participating employers and shall receive one month of credit for each two months of continuous service with other participating employers for continuous employment preceding service as a policeman or fireman. Upon receipt of written verification of such employment from such other participating employer, the board may grant such additional prior service credit. With respect to a retirant, the board shall adjust the amount of the retirement benefit accordingly commencing with the next monthly benefit payment due following receipt of written verification. In the case of any person other than a retirant receiving a retirement benefit, such person may make application for an adjustment in the benefit amount in the same manner as a member or retirant, and in such case the adjustment in the benefit amount shall be determined by the board upon the advice of the actuary, and shall commence with the next monthly benefit payment due following receipt of written verification, except that no additional prior service credit shall be granted for any service with another participating employer for which benefits are being received or will be received. A retirant or any other person receiving a retirement benefit shall not be entitled to any retroactive adjustment in the amount of retirement benefit as a result of the board granting such additional prior service credit.

If a member was employed as a fireman, other than as a volunteer fireman, by a township which is annexed by a participating employer the member's retirement benefits and death and disability benefits shall be computed on the basis of credited service. Continuous service as a fireman with a township prior to annexation by a member, who became a member immediately following the annexation, shall be considered credited service.

No such service shall be considered credited service for the purpose of computing years of service if such fireman is receiving or will become eligible to receive benefits as a result of such service with the township.

(b) Leaves of absence and military service shall not be counted as breaks in continuous employment; however, military service which is preceded within 30 days and followed by employment with a participating employer shall be credited, except that after July 1, 1974, not more than five years credit for military service shall be granted hereunder to the extent required by the provisions of USERRA, but leaves of absence shall not be credited.

(2) Participating service shall be credited as follows: (a) A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the board. *Any period of time away from work or normal duties while in a paid status authorized and approved by a participating employer on and after July 1, 2014, including, without limitation, any administrative leave with*

*pay and any paid vacation leave, sick leave, personal leave, worker's compensation leave, light duty or temporary duty assignment, shall constitute participating service and any member shall receive full credit for such participating service with a participating employer for any such period of time away from work or normal duties. If the member does not return to work for the participating employer in the same or a similar position at the conclusion of such leave, except for reasons of death or disability, the period of the leave shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer unless otherwise provided herein. In the case of a decision to voluntarily terminate employment, the period of leave exceeding 365 days shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer. No more than one calendar quarter of participating service shall be credited for employment within any one calendar quarter.*

(b) Leaves of absence shall not be counted as a termination of employment provided the member leaves such member's accumulated contributions on deposit with the system and returns to employment with the employer granting such leave; however, the period of leave of absence shall not be credited service.

(c) To the extent required under the provisions of USERRA, military service shall not count as a break in continuous employment.

(d) Termination of employment with a participating employer followed by employment with the same or another participating employer within two years shall not constitute a termination of membership provided the member leaves such member's accumulated contributions on deposit with the system; however, the period while not employed shall not be credited.

(3) In determining the number of years of credited service for calculation of retirement benefits a fractional year of six months or more of credited service shall be considered as one year and a fractional year of less than six months of credited service shall be disregarded.

Sec. 3. K.S.A. 74-4959 is hereby amended to read as follows: 74-4959.

(1) Upon the death from service-connected causes as defined in this act, of an active contributing member prior to retirement, the following benefits shall be payable if a report of the event, in a form acceptable to the board, is filed in the office of the executive director of the board within 200 days after the date of the act of duty causing such death and an application for such benefits, in such form and manner as prescribed by the board, is filed in the office of the executive director of the board within two years of the date of death, but the board may waive such time limits for a reasonable period if in the judgment of the board the failure to meet these limits was due to lack of knowledge or incapacity:

(a) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual spouse's benefit equal to 50% of the member's final average salary; or, for deaths occurring on or after July 1, 2016, the greater of: (i) 50% of the member's final average salary; or (ii) the amount that would have been paid had the member elected the option provided for in K.S.A. 74-4964(5)(B), and amendments thereto, and retired as of the first day of the month coinciding with or following the date of death, ~~which~~. Such spouse's benefit shall accrue from the first day of the month coinciding with or following the member's death and shall end on the first day of the month in which the spouse's death occurs. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act.

(b) Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, to the member's children under the age of 18 years or under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117, and amendments thereto, an annual children's benefit equal to 10% of the member's final average salary for each such child, which shall accrue from the first day of the month coinciding with or following the member's death and shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, except that if there is no eligible spouse, or if upon the death of the spouse there remain one or more children under the age of 18 years or under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117, and amendments thereto, the annual spouse's benefit shall be paid in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

(c) In no case shall benefits payable under the provisions of ~~para-~~

~~graphs (a) and (b) of this subsection (1)(a) and (b) exceed 75%~~ 90% of the member's final average salary.

(2) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, upon the death from causes not service-connected of an active contributing member prior to retirement, the member's spouse, if lawfully wedded to the member at the time of the member's death, shall receive immediately a lump-sum benefit equal to 100% of the member's final average salary and shall be entitled to receive an annual death benefit equal to the member's retirement benefit calculated as if the member had retired on the member's normal retirement date, but based upon the member's final average salary and years of credited service on the date of death but not to exceed ~~the amount of the annual spouse's benefit provided in paragraph (a) of subsection (1)~~ *an amount equal to 50% of the member's final average salary*. An application for such benefits in such form and manner as prescribed by the board must be filed in the office of the executive director of the board within two years of the date of death, but the board may waive such time limit for a reasonable period if in the judgment of the board the failure to meet this limit was due to the lack of knowledge or incapacity. On and after July 1, 1993, the annual spouse's benefit under this subsection (2) shall accrue from the first day of the month coinciding with or following the member's death and shall continue until the spouse's death. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no eligible spouse or if after the death of the spouse there remain one or more children of the member under the age of 18 years or one or more children of the member under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117, and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123, and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of



benefits by reason of such child's marriage but before the effective date of this act.

(3) Upon the death of a member prior to retirement, if no benefits are payable under the provisions of subsection (1) or (2), the sum of the following shall be paid to the member's beneficiary: (a) The member's accumulated contributions; and (b) a lump sum death benefit equal to 100% of the member's current annual salary reduced by the sum of the member's accumulated contributions paid as provided by this section.

(4) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor as provided in ~~subsection (7) of K.S.A. 74-4902(7)~~, and amendments thereto.

Sec. 4. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as follows: 74-4914. (1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days and without any prearranged agreement for employment with any participating employer, and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Such application shall contain a certification by the member that the member will not be employed with any participating employer within 60 days of retirement and the member has not entered into a prearranged agreement for employment with any participating employer. Nothing herein shall prevent any person, member or retiree from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retiree shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b, and amendments thereto, and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal

retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe. The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(5) Except as provided in subsection (7), on or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$20,000 or more in any one such calendar year, or \$25,000 or more in any one calendar year between July 1, 2016, and July 1, 2020, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under K.S.A. 72-5410(a), and

amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this act which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official, except an elected city or county officer as further provided in this subsection, on and after the term of office of such other elected official which commences on or after July 1, 2000. Notwithstanding any provisions of law to the contrary, when an elected city or county officer is retired under the provisions of subsection (1) or (4) of this section and is paid an amount of compensation of \$25,000 or more in any one calendar year between July 1, 2016, and July 1, 2020, such officer may receive such officer's salary, and still be entitled to receive such officer's retirement benefit pursuant to the provisions of K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in K.S.A. 46-137a(b) and (d), and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired

under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.

(7) (a) Except as provided in K.S.A. 74-4937(3), (4), or (5), and amendments thereto, and the provisions of this subsection, commencing July 1, 2016, and ending July 1, 2020, any retirant who is employed or appointed in or to any position by a participating employer or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to \$25,000 or more, pursuant to this subsection. The provisions of this subsection shall apply to members of the legislature.

(b) The provisions of this subsection shall not apply, except as specifically provided in this subsection, to retirants ~~that~~ who are:

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302~~(f)~~(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), (4) or (5), and amendments thereto. Any retirant employed by a school district in a position under K.S.A. 74-4937(3), (4) or (5), and amendments thereto, shall be subject to the provisions of subsection (7)(h) which relate to a limitation on the total term of employment with

any participating employer in which a retirant may receive such retirant's full retirement benefit;

(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center shall pay to the system the ~~actuarial~~ *actuarially* determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment;

(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, ~~or~~ members of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and amendments thereto, *or members of the state board of regents retirement plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;*

(v) employed as substitute teachers or officers, employees or appointees of the legislature;

(vi) a poll worker hired to work an election day for a county election officer responsible for conducting all official elections held in the county; and

(vii) employed by, or have accepted employment from, a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection.

(c) The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits. No retirant shall receive credit for service while employed under the provisions of this subsection.

(d) A participating employer may employ a retirant without regard to the compensation limitation in this subsection for a period of one calendar year or one school year, as the case may be, if the following requirements are met:

(i) The employer certifies to the board that the position being filled

has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position;

(ii) the employer pays to the system a 30% employer contribution based on the retirant's compensation during any such period of employment. On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retirants and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retirants, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in the case of the state, and to the agent for each other participating employer, a new rate if needed to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%; and

(iii) the employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits upon request of the committee.

(e) An employer may submit a written assurance protocol to the system to extend the exception provided for in subsection (7)(d) by one-year increments for a total extension not to exceed three years. A written assurance protocol shall be submitted to the system for each one-year increment extension. If a school district submits a written assurance protocol, such written assurance protocol shall be signed by the superintendent and the board president of such school district. If a municipality, as defined in K.S.A. 75-1117, and amendments thereto, other than a school district, submits a written assurance protocol, such written assurance protocol shall be signed by the governing body or such governing body's designee for such municipality. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:

- (i) No applications were submitted for the position;
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
- (iii) if applications were submitted, none of the applicants possessed the appropriate licensure, certification or other necessary credentials for the position.

(f) On July 1, 2021, and at least every five years thereafter, the joint committee on pensions, investments and benefits shall study the issue of whether the compensation limitation prescribed in this subsection should be adjusted. The committee shall consider the effect of inflation and data on member retirement benefits and active employee compensation.

(g) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

(h) Any retirant hired by any participating employer under the provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and amendments thereto, may continue to receive such retirant's full retirement benefit so long as, commencing July 1, 2016, such retirant's total term of employment with all participating employers under one or more of such provisions does not exceed 48 months or four school years, whichever is less. After such period, such retirant shall not receive any retirement benefit for any month in any calendar year in which such retirant receives compensation in an amount equal to \$25,000 or more in such calendar year.

(8) If determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement and prior to the end of the subsequent 60-day waiting period, the monthly retirement benefit of such retirant shall be suspended during the period that begins on the month in which the retirant is re-employed and ends six months after the retirant's termination of such employment. The retirant shall repay to the retirement system all monthly retirement benefits paid to the retirant by the retirement system that the retirant received after such employment began. The participating employer which hired such retirant shall be required to pay to the system any fees, fines, penalties or any other cost imposed by the internal revenue service and indemnify the system for any cost incurred by the system to defend any action brought by the internal revenue service based on in-service distributions which are a result of any determined prearranged agreement and for any cost incurred by the system to collect any monthly retirement benefit required to be repaid by such retirant pursuant to this subsection.

(9) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

Sec. 5. K.S.A. 2016 Supp. 74-49,123 is hereby amended to read as follows: 74-49,123. (a) This section applies to the Kansas public employees retirement system and to all other public retirement plans administered by the board of trustees.

(b) As used in this section:

(1) "Federal internal revenue code" means the federal internal revenue code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 2008; and

(2) "retirement plan" includes the Kansas public employees retire-

ment system and all other Kansas public retirement plans and benefit structures, which are administered by the board.

(c) In addition to the federal internal revenue code provisions otherwise noted in each retirement plan's law, and in order to satisfy the applicable requirements under the federal internal revenue code, the retirement plans shall be subject to the following provisions, notwithstanding any other provision of the retirement plan's law:

(1) The board shall distribute the corpus and income of the retirement plan to the members and their beneficiaries in accordance with the retirement plan's law. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries.

(2) Forfeitures arising from severance of employment, death or for any other reason may not be applied to increase the benefits any member would otherwise receive under the retirement plan's law. However, forfeitures may be used to reduce an employer's contribution.

(3) All benefits paid from the retirement plan shall be distributed in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the federal internal revenue code and the regulations under that section. Notwithstanding any other provision of these rules and regulations, effective on and after January 1, 2003, the retirement plan is subject to the following provisions:

(A) Benefits must begin by the required beginning date, which is the later of April 1 of the calendar year following the calendar year in which the member reaches 70½ years of age or April 1 of the calendar year following the calendar year in which the member terminates employment. If a member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which such member reaches 70½ years of age or April 1 of the calendar year following the calendar year in which such member terminates employment, whichever is later, the board will begin distributing the benefit as required by this section.

(B) The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary. Death benefits must be distributed in accordance with section 401(a)(9) of the federal internal revenue code, including the incidental death benefit requirement in section 401(a)(9)(G) of the federal internal revenue code, and the regulations implementing that section.

(C) The life expectancy of a member, the member's spouse or the member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(D) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distrib-



uted at least as rapidly as under the method of distribution before the member's death and no longer than the remaining period over which distributions commenced.

(E) If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be either:

(i) In accordance with federal regulations, distributed over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year of the member's death; or

(ii) distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(F) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the federal internal revenue code.

(G) The death and disability benefits provided by a retirement plan are limited by the incidental benefit rule set forth in section 401(a)(9)(G) of the federal internal revenue code and treasury regulation 1.401-1(b)(1)(i).

(4) Distributions from the retirement plans may be made only upon retirement, separation from service, disability or death.

(5) The board or its designee may not:

(A) Determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries, in a manner that discriminates in favor of members who are considered officers, supervisors or highly compensated, as prohibited under section 401(a)(4) of the federal internal revenue code.

(6) Subject to the provisions of this subsection, benefits paid from, and employee contributions made to, the retirement plans shall not exceed the maximum benefits and the maximum annual additions, respectively, permissible under section 415 of the federal internal revenue code.

(A) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in section 415(b) of the federal internal revenue code, subject to the applicable adjustments in that section. Beginning January 1, 1995, a participant may not receive an annual benefit that exceeds the dollar amount specified in section 415(b)(1)(A) of the federal internal revenue code, subject to the applicable adjustments in section 415 of the federal internal revenue code.

(B) Notwithstanding any other provision of law to the contrary, the board may modify a request by a participant to make a contribution to the retirement plans if the amount of the contribution would exceed the limits under section 415(c) or 415(n) of the federal internal revenue code subject to the following:

(i) Where the retirement plan's law requires a lump-sum payment, for the purchase of service credit, the board may establish a periodic

payment plan in order to avoid a contribution in excess of the limits under section 415(c) or 415(n) of the federal internal revenue code.

(ii) If the board's option under ~~subdivision~~ *clause* (i) will not avoid a contribution in excess of the limits under section 415(c) or 415(n) of the federal internal revenue code, the board shall reduce or deny the contribution.

(C) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if an active member makes one or more contributions to purchase permissive service credit under a retirement plan, then the requirements of this section shall be treated as met only if:

(i) The requirements of section 415(b) of the federal internal revenue code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of such section; or

(ii) the requirements of section 415(c) of the federal internal revenue code are met, determined by treating all such contributions as annual additions for purposes of such section. For purposes of applying ~~subparagraph~~ *clause* (i) a retirement plan shall not fail to meet the reduced limit under section 415(b)(2)(C) of the federal internal revenue code solely by reason of this ~~paragraph~~ *subparagraph* (C), and for purposes of applying ~~subparagraph~~ *clause* (ii), a retirement plan shall not fail to meet the percentage limitation under section 415(c)(1)(B) of the federal internal revenue code solely by reason of this paragraph.

(iii) For purposes of this ~~paragraph~~ *clause*, the term "permissive service credit" means service credit:

(a) Specifically recognized by a retirement plan's law for purposes of calculating a member's benefit under that retirement plan;

(b) which such member has not received under a retirement plan; and

(c) which such member may receive under a retirement plan's law only by making a voluntary additional contribution, in an amount determined under the retirement plan's law and procedures established by the board, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

(iv) A retirement plan shall fail to meet the requirements of this ~~paragraph~~ *clause* if the retirement plan's law specifically provides for a purchase of nonqualified service purchase, and if:

(a) More than five years of nonqualified service credit are taken into account for purposes of this ~~paragraph~~ *subclause*; or

(b) any nonqualified service credit is taken into account under this ~~paragraph~~ *subclause* before the member has at least five years of participation under a retirement plan. For purposes of this ~~paragraph~~ *subclause*, effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service

credit” means the same as provided in section 415(n)(3)(C) of the federal internal revenue code.

(v) In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal internal revenue code applies, without regard to whether the transfer is made between plans maintained by the same employer:

(a) The limitations of ~~subparagraph clause~~ (iv) shall not apply in determining whether the transfer is for the purchase of permissive service credit; and

(b) the distribution rules applicable under federal law to a retirement plan shall apply to such amounts and any benefits attributable to such amounts.

(vi) For an eligible member, the limitation of section 415(c)(1) of the federal internal revenue code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the statute as in effect on August 5, 1997. For purposes of this ~~subparagraph clause~~, an eligible member is an individual who first became a member in the retirement plan before January 1, 1998.

(D) Subject to approval by the internal revenue service, the board shall maintain a qualified governmental excess benefit arrangement under section 415(m) of the federal internal revenue code. The board shall establish the necessary and appropriate procedures for the administration of such benefit arrangement under the federal internal revenue code. The amount of any annual benefit that would exceed the limitations imposed by section 415 of the federal internal revenue code shall be paid from this benefit arrangement. The amount of any contribution that would exceed the limitations imposed by section 415 of the federal internal revenue code shall be credited to this benefit arrangement. The qualified excess benefit arrangement shall be a separate portion of the retirement plan. The qualified excess benefit arrangement is subject to the following requirements:

(i) The benefit arrangement shall be maintained solely for the purpose of providing to participants in the retirement plans that part of the participant’s annual benefit otherwise payable under the terms of the act that exceeds the limitations on benefits imposed by section 415 of the federal internal revenue code; and

(ii) participants do not have an election, directly or indirectly, to defer compensation to the excess benefit arrangement.

(E) For purposes of applying these limits only and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by treasury regulation section 1.415(c)-2. Specifically, compensation shall be defined as wages within the meaning of section 3401(a) of the federal internal revenue code and all other pay-

ments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under sections 6041(d), 6051(a)(3) and 6052 of the federal internal revenue code. Compensation shall be determined without regard to any rules under section 3401(a) of the federal internal revenue code that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in section 3401(a)(2) of the federal internal revenue code.

(i) However, for limitation years beginning after December 31, 1997, compensation shall also include amounts that would otherwise be included in compensation but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue code. For limitation years beginning after December 30, 2000, compensation shall also include any elective amounts that are not includable in the gross income of the employee by reason of section 132(f)(4) of the federal internal revenue code.

(ii) The definition of compensation shall exclude employee contributions picked up under section 414(h)(2) of the federal internal revenue code.

(iii) For limitation years beginning on and after January 1, 2007, compensation for the limitation year will also include compensation paid by the later of two and a half months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

(a) The payment is regular compensation for services during the employee's regular working hours or compensation for services outside the employee's regular working hours, such as overtime or shift differential, commissions, bonuses or other similar payments, and absent a severance from employment, the payments would have been paid to the employee while the employee continues in employment with the employer;

(b) the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or

(c) for limitation years beginning on and after January 1, 2012, the payment is made pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includable in the member's gross income.

(iv) Any payments not described in ~~paragraph~~ *clause* (iii) are not considered compensation if paid after severance from employment, even if they are paid within two and a half months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service, within the meaning of section 414(u)(1) of the federal internal

revenue code, to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(v) An employee who is in qualified military service, within the meaning of section 414(u)(1) of the federal internal revenue code, shall be treated as receiving compensation from the employer during such period of qualified military service equal to: (a) The compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service; or (b) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve-month period immediately preceding the qualified military service, or if shorter, the period of employment immediately preceding the qualified military service.

(vi) Back pay, within the meaning of treasury regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(7) On and after January 1, 2009, for purposes of applying the limits under section 415(b) of the federal internal revenue code, the following shall apply:

(A) A member's applicable limit shall be applied to the member's annual benefit in the first limitation year without regard to any automatic cost-of-living increases;

(B) to the extent the member's annual benefit equals or exceeds such limit, the member shall no longer be eligible for cost-of-living increases until such time as the benefit plus the accumulated increases are less than such limit;

(C) thereafter, in any subsequent limitation year, the member's annual benefit including any automatic cost-of-living increase applicable shall be tested under the then applicable benefit limit including any adjustment to the dollar limit under section 415(b)(1)(A) or 415(d) of the federal internal revenue code and the regulations thereunder; and

(D) in no event shall a member's annual benefit payable from a retirement plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d) of the federal internal revenue code and the regulations thereunder. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity, then the preceding sentence is applied by reducing the limit under section 415(b) of the federal internal revenue code applicable at the annuity starting date to an actuarially equivalent amount determined using the assumptions specified in

treasury regulation section 1.415(b)-1(c)(2)(ii) that take into account the death benefits under the form of benefit. This subsection applies to distributions made on and after January 1, 1993. A distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a transfer made from the retirement system.

(i) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (a) Any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or the life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary or for a specified period of 10 years or more; (b) any distribution to the extent such distribution is required under section 401(a)(9) of the federal internal revenue code; (c) the portion of any distribution that is not includable in gross income; and (d) any other distribution that is reasonably expected to total less than \$200 during the year. Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the federal internal revenue code, or to a qualified defined contribution plan described in section 401(a) of the federal internal revenue code or to a qualified plan described in section 403(a) of the federal internal revenue code, that agrees to separately account for amounts so transferred and earnings on such amounts, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable, or on or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the federal internal revenue code or to an annuity contract described in section 403(b) of the federal internal revenue code, that agrees to separately account for amounts so transferred and earnings thereon, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable.

(ii) An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(a) An individual retirement account described in section 408(a) of the federal internal revenue code;

(b) an individual retirement annuity described in section 408(b) of the federal internal revenue code;

(c) an annuity plan described in section 403(a) of the federal internal revenue code;

(d) a qualified trust described in section 401(a) of the federal internal revenue code;

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the federal internal revenue code;

(f) effective January 1, 2002, a plan eligible under section 457(b) of the federal internal revenue code that is maintained by a state, political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into the plan from a retirement plan; or

(g) effective January 1, 2008, a roth IRA described in section 408(A) of the federal internal revenue code.

(iii) Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the federal internal revenue code.

(iv) A distributee includes an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the federal internal revenue code. Effective July 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the federal internal revenue code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(v) A direct rollover is a payment by the retirement system to the eligible retirement plan specified by the distributee.

(8) Notwithstanding any law to the contrary, the board may accept a direct or indirect eligible rollover distributions for the purpose of the purchase of service credit. In addition, the board may accept a direct trustee to trustee transfer from a deferred compensation plan under section 457(b) of the federal internal revenue code or a tax sheltered annuity under section 403(b) of the federal internal revenue code for: (A) The purchase of permissive service credit, as defined under section 415(n)(3)(A) of the federal internal revenue code; or (B) a repayment to which section 415 of the federal internal revenue code does not apply pursuant to section 415(k)(3) of the federal internal revenue code. Any such transfer shall be allowed as provided in this subsection to the extent permitted by law, subject to any conditions, proofs or acceptance established or required by the board or the board's designee.

(9) Where required by the act, an employer shall pick up and pay contributions that would otherwise be payable by members of a retire-

ment plan in accordance with section 414(h)(2) of the federal internal revenue code as follows:

(A) The contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee;

(B) the employee must not have been given the option of receiving the amounts directly instead of having them paid to the retirement plan; and

(C) the pickup shall apply to amounts that a member elects to contribute to receive credit for prior or participating service if the election is irrevocable and applies to amounts contributed before retirement.

(10) (A) Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the federal internal revenue code and the uniformed services employment and reemployment rights act of 1994.

(B) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service, as defined in chapter 43 of title 38, United States code, to the extent required by section 401(a)(37) of the federal internal revenue code, survivors of a member in the system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. A deceased member's period of qualified military service must be counted for vesting purposes.

(C) Effective with respect to deaths or disabilities, or both, occurring on or after January 1, 2007, while a member is performing qualified military service, as defined in chapter 43 of title 38, United States code, to the extent permitted by section 414(u)(9) of the federal internal revenue code, for the benefit accrual purposes and in the case of death, for vesting purposes, the member will be treated as having earned years of service for the period of qualified military service, having returned to employment on the day before the death or disability, or both, and then having terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(D) Beginning January 1, 2009, to the extent required by section 414(u)(12) of the federal internal revenue code, an individual receiving differential wage payments, as defined under section 3401(h)(2) of the federal internal revenue code, from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the federal internal revenue code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.



(11) Upon the complete or partial termination of a retirement plan, the rights of members to benefits accrued to the date of termination, to the extent funded, or to the amounts in their accounts are nonforfeitable, and amounts in their accounts may be distributed to them.

(d) The plan year for the retirement plan begins on July 1.

(e) The limitation year for purposes of section 415 of the federal internal revenue code is the calendar year.

(f) The board may not engage in a transaction prohibited by section 503(b) of the federal internal revenue code.

(g) (1) For purposes of determining an “actuarial equivalent” or of an “actuarial computation” for members hired prior to July 1, 2009, the board shall use the following:

(A) The applicable mortality table is specified in revenue ruling 2001-62 or revenue ruling 2007-67, as applicable; and

(B) the applicable interest factor is ~~8% per year~~ *the actuarially assumed rate of return established by the board.*

(2) For purposes of determining an “actuarial equivalent” or an “actuarial computation” for members hired on or after July 1, 2009, the board shall use the following:

(A) The applicable mortality table is the 50/50 male/female blend of the RP 2000 health annuitant mortality table, projected to 2025; and

(B) the applicable interest factor is ~~8% per year~~ *the actuarially assumed rate of return established by the board.*

(3) For converting amounts payable under the partial lump sum option, the board shall use the following:

(A) The applicable mortality table is a 50/50 male/female blend of the 1983 group annuity mortality table; and

(B) the applicable interest factor is ~~8% per year~~ *the actuarially assumed rate of return established by the board.*

(4) For benefit testing under section 415(b) of the federal internal revenue code, the factors required by treasury regulations shall be used. The applicable mortality table is specified in revenue ruling 2001-62 for years prior to January 1, 2009, and notice 2008-85 for years after December 31, 2008.

Sec. 6. K.S.A. 74-4913, 74-4956 and 74-4959 and K.S.A. 2016 Supp. 74-4914, 74-4914f and 74-49,123 are hereby repealed.

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

Approved May 10, 2017.



## CHAPTER 69

## SENATE BILL No. 14

AN ACT concerning insurance; relating to the regulation of sales thereof; insurance agent licensure; amending K.S.A. 2016 Supp. 40-4903 and 40-4905 and repealing the existing sections.

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

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

(1) “Licensee” means a person authorized to sell limited line insurance relating to the rental of self-service storage units pursuant to K.S.A. 2016 Supp. 40-4903, and amendments thereto.

(2) “Rental agreement” means any written agreement setting forth the terms and conditions governing the use of a storage unit provided by the owner of a self-service storage facility company.

(3) “Renter” or “occupant” means any person obtaining the use of a storage unit from a self-service storage company under the terms of a rental agreement.

(4) “Self-service storage company” means any person in the business of renting storage units to the public.

(5) “Storage unit” means a semi-enclosed or fully enclosed area, room or space that is primarily intended for the storage of personal property and which shall be accessible by the renter of the unit pursuant to the terms of the rental agreement.

(b) Insurance relating to the rental of self-service storage units shall only be sold by a licensee, and no such insurance shall be sold to any person in this state unless all of the following apply:

(1) The rental period of the rental agreement does not exceed two years;

(2) at every location where such insurance agreements are executed, brochures or other written materials are readily available to the prospective renter that:

(A) Summarize, clearly and correctly, the material terms of insurance coverage, including the identity of the insurer, offered to renters;

(B) disclose that this insurance may provide duplication of coverage already provided by a renter’s or homeowner’s insurance policy or other source of coverage;

(C) state that the purchase by the renter of this insurance is not required in order to rent a storage unit;

(D) describe the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim; and

(E) contain any additional information on the price, benefits, exclusions, conditions or other limitations of such policies as the commissioner may, by rules and regulations, prescribe;

(3) at every location where such insurance agreements are executed, a sign, approved by the commissioner, is posted that contains the follow-

ing, or substantially the same information: “State law requires the operator of this facility to inform you that insurance sold by this self-storage company may provide duplication of coverage already provided by a renter’s or homeowner’s policy or other source of coverage. You are encouraged to contact your primary insurance carrier if you have questions about your existing coverage.”; and

(4) evidence of coverage is provided to every renter who elects to purchase such insurance.

(c) No renter or occupant shall be required to obtain insurance pursuant to this section as a condition of obtaining a rental agreement for a storage unit. The renter shall be informed that the insurance offered pursuant to this section is not required as a condition for obtaining a rental agreement for a storage unit.

(d) The commissioner shall adopt rules and regulations as necessary to carry out the provisions of this section by January 1, 2018.

Sec. 2. On and after January 1, 2018, K.S.A. 2016 Supp. 40-4903 is hereby amended to read as follows: 40-4903. (a) Unless denied licensure pursuant to K.S.A. 2016 Supp. 40-4909, and amendments thereto, any person who meets the requirements of K.S.A. 2016 Supp. 40-4905, and amendments thereto, shall be issued an insurance agent license. An insurance agent may receive qualifications for a license in one or more of the following lines of authority:

(1) Life – insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health or sickness – insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(3) Property – insurance coverage for the direct or consequential loss or damage to property of every kind.

(4) Casualty – insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(5) Variable life and variable annuity products – insurance coverage provided under variable life insurance contracts, variable annuities or any other life insurance or annuity product that reflects the investment experience of a separate account.

(6) Personal lines – property and casualty insurance coverage sold primarily to an individual or family for noncommercial purposes.

(7) Credit – limited line credit insurance.

(8) Crop insurance – limited line insurance for damage to crops from unfavorable weather conditions, fire, lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or any other peril subsidized by the federal crop insurance corporation, including multi-peril crop insurance.

(9) Title insurance – limited line insurance that insures titles to property against loss by reason of defective titles or encumbrances.

(10) Travel insurance – limited line insurance for personal risks incidental to planned travel, including, but not limited to:

(A) Interruption or cancellation of trip or event;

(B) loss of baggage or personal effects;

(C) damages to accommodations or rental vehicles; or

(D) sickness, accident, disability or death occurring during travel.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six months or longer, for example, persons working overseas including military personnel deployed overseas.

(11) Pre-need funeral insurance – limited line insurance that allows for the purchase of a life insurance or annuity contract by or on behalf of the insured solely to fund a pre-need contract or arrangement with a funeral home for specific services.

(12) Bail bond insurance – limited line insurance that provides surety for a monetary guarantee that an individual released from jail will be present in court at an appointed time.

(13) *Self-service storage unit insurance – limited line insurance relating to the rental of self-service storage units, including: (A) Personal effects insurance that provides coverage to renters of storage units at the same facility for the loss of, or damage to, personal effects that occurs at the same facility during the rental period; and (B) any other coverage that the commissioner may approve as meaningful and appropriate in connection with the rental of storage units. Such insurance may only be issued in accordance with section 1, and amendments thereto.*

(14) Any other line of insurance permitted under the provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations promulgated thereunder.

(b) Unless suspended, revoked or refused renewal pursuant to K.S.A. 2016 Supp. 40-4909, and amendments thereto, an insurance agent license shall remain in effect as long as education requirements for resident individual agents are met by such insurance agent's biennial due date.

(c) On and after the effective date of this act: (1) Each licensed insurance agent who is an individual and holds a property or casualty qualification, or both, or a personal lines qualification shall biennially obtain a minimum of 12 C.E.C.s in courses certified as property and casualty which shall include at least one hour of instruction in insurance ethics which also may include regulatory compliance. No more than three of the required C.E.C.s shall be in insurance agency management.

(2) Each licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially complete 12 C.E.C.s in courses certified as life, accident and health, or variable contracts which shall include at

least one hour of instruction in insurance ethics which also may include regulatory compliance. No more than three of the required C.E.C.s shall be in insurance agency management.

(3) Each licensed insurance agent who is an individual and holds only a crop qualification shall biennially obtain a minimum of two C.E.C.s in courses certified as crop C.E.C.s under the property and casualty category.

(4) Each licensed insurance agent who is an individual and is licensed only for title insurance shall biennially obtain a minimum of four C.E.C.s in courses certified by the board of abstract examiners as title C.E.C.s under the property and casualty category.

(5) Each licensed insurance agent who is an individual and holds a life insurance license solely for the purpose of selling pre-need funeral insurance or annuity products shall file a report on or before such agent's biennial due date affirming that such agent transacted no other insurance business during the period covered by the report. Upon request of the commissioner, an agent shall provide certification from an officer of each insurance company which has appointed such agent that the agent transacted no other insurance business during the period covered by the report. Agents who have offered to sell or sold only pre-need funeral insurance are exempt from the requirement to obtain C.E.C.s.

(6) Each licensed insurance agent who is an individual and holds only a bail bond qualification is exempt from the requirement to obtain C.E.C.s.

(d) On and after the effective date of this act, each individual insurance agent who holds a license with both a property or casualty qualification, or both, and a life, accident and health or variable contracts qualification, or any combination thereof, and who earns C.E.C.s from courses certified by the commissioner as qualifying for credit in any class, may apply, at such insurance agent's option, such C.E.C.s toward either the property or casualty continuing education requirement or to the life, accident and health or variable contracts continuing education requirement. However, no C.E.C. shall be applied to satisfy both the biennial property or casualty requirement, or both, and the biennial requirement for life, accident and health or variable contracts, or any combination thereof.

(e) An instructor of an approved subject shall be entitled to the same C.E.C. as a student completing the study.

(f) (1) An individual insurance agent who has been licensed for more than one year, on or before such insurance agent's biennial due date, shall file a report with the commissioner certifying that such insurance agent has met the continuing education requirements for the previous biennium ending on such insurance agent's biennial due date. Each individual insurance agent shall maintain a record of all courses attended together with a certificate of attendance for the remainder of the biennium in

which the courses were attended and the entire next succeeding biennium.

(2) If the required report showing proof of continuing education completion is not received by the commissioner by the individual insurance agent's biennial due date, such individual insurance agent's qualification and each and every corresponding license shall be suspended automatically for a period of 90 calendar days or until such time as the producer satisfactorily demonstrates completion of the continuing education requirement whichever is sooner. In addition the commissioner shall assess a penalty of \$100 for each license suspended. If such insurance agent fails to furnish to the commissioner the required proof of continuing education completion and the monetary penalty within 90 calendar days of such insurance agent's biennial due date, such individual insurance agent's qualification and each and every corresponding license shall expire on such insurance agent's biennial due date. If after more than three but less than 12 months from the date the license expired, the insurance agent wants to reinstate such insurance agent's license, such individual shall provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. If after more than 12 months from the date an insurance agent's license has expired, such insurance agent wants to reinstate such insurance agent's license, such individual shall apply for an insurance agent's license, provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. Upon receipt of a written application from such insurance agent claiming extreme hardship, the commissioner may waive any penalty imposed under this subsection.

(3) On and after the effective date of this act, any applicant for an individual insurance agent's license who previously held a license which expires on or after June 30, 2001, because of failure to meet continuing education requirements and who seeks to be relicensed shall provide evidence that appropriate C.E.C.s have been completed for the prior biennium.

(4) Upon receipt of a written application from an individual insurance agent, the commissioner, in cases involving medical hardship or military service, may extend the time within which to fulfill the minimum continuing educational requirements for a period of not to exceed 180 days.

(5) This section shall not apply to any inactive insurance agent during the period of such inactivity. For the purposes of this paragraph, "inactive period" or "period of inactivity" shall mean a continuous period of time of not less than two years and not more than four years starting from the date inactive status is granted by the commissioner. Before returning to active status, such inactive insurance agent shall:

(A) File a report with the commissioner certifying that such agent has met the continuing education requirement; and

(B) pay the renewal fee. If the required proof of continuing education completion and the renewal fee is not furnished at the end of the inactive period, such individual insurance agent's qualification and each and every corresponding license shall expire at the end of the period of inactivity. For issuance of a new license, the individual shall apply for a license and pass the required examination.

(6) Any individual who allows such individual's insurance agent license in this state and all other states in which such individual is licensed as an insurance agent to expire for a period of four or more consecutive years, shall apply for a new insurance agent license and pass the required examination.

(g) (1) Each course, program of study, or subject shall be submitted to and certified by the commissioner in order to qualify for purposes of continuing education.

(2) Each request for certification of any course, program of study or subject shall contain the following information:

- (A) The name of *the* provider or provider organization;
- (B) the title of such course, program of study or subject;
- (C) the date the course, program of study or subject will be offered;
- (D) the location where the course, program of study or subject will be offered;
- (E) an outline of each course, program of study or subject including a schedule of times when such material will be presented;
- (F) the names and qualifications of instructors;
- (G) the number of C.E.C.s requested;
- (H) a nonrefundable C.E.C. qualification fee in the amount of \$50 per course, program of study or subject or \$250 per year for all courses, programs of study or subjects submitted by a specific provider or provider organization; and
- (I) a nonrefundable annual provider fee of \$100.

(3) Upon receipt of such information, the commissioner shall grant or deny certification of any submitted course, program of study or subject as an approved subject, program of study or course and indicate the number of C.E.C.s that will be recognized for each approved course, program of study or subject. Each approved course, program of study or subject shall be assigned by the commissioner to one or both of the following classes:

- (A) Property and casualty; or
- (B) life insurance, including annuity and variable contracts, and accident and health insurance.

(4) Each course, program of study or subject shall have a value of at least one C.E.C.

(5) Each provider seeking approval of a course, program of study or subject for continuing education credit shall issue or cause to be issued to each person who attends a course, program of study or subject offered

by such provider a certificate of attendance. The certificate shall be signed by either the instructor who presents the course, program of study or course or such provider's authorized representative. Each provider shall maintain a list of all individuals who attend courses offered by such provider for continuing education credit for the remainder of the biennium in which the courses are offered and the entire next succeeding biennium.

The commissioner shall accept, without substantive review, any course, program of study or subject submitted by a provider which has been approved by the insurance supervisory authority of any other state or territory accredited by the NAIC. The commissioner may disapprove any individual instructor or provider who has been the subject of disciplinary proceedings or who has otherwise failed to comply with any other state's or territory's laws or regulations.

(6) The commissioner may grant or approve any specific course, program of study or course that has appropriate merit, such as any course, programs of study or course with broad national or regional recognition, without receiving any request for certification. The fee prescribed by ~~paragraph (2) of subsection (g)(2)~~ shall not apply to any approval granted pursuant to this provision.

(7) The C.E.C. value assigned to any course, program of study or subject, other than a correspondence course, computer based training, interactive internet study training or other course pursued by independent study, shall in no way be contingent upon passage or satisfactory completion of any examination given in connection with such course, program of study or subject. The commissioner shall establish, by rules and regulations criteria for determining acceptability of any method used for verification of the completion of each stage of any computer based or interactive internet study training. Completion of any computer based training or interactive internet study training shall be verified in accordance with a method approved by the commissioner.

(h) Upon request, the commissioner shall provide a list of all approved continuing education courses currently available to the public.

(i) An individual insurance agent who independently studies an insurance course, program of study or subject which is not an agent's examination approved by the commissioner and who passes an independently monitored examination, shall receive credit for the C.E.C.s assigned by the commissioner as recognition for the approved subject. No other credit shall be given for independent study.

(j) Any licensed individual insurance agent who is unable to comply with license renewal procedures due to military service or some other extenuating circumstances may request a waiver of those procedures from the commissioner. Such agent may also request from the commissioner a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.



Sec. 3. K.S.A. 2016 Supp. 40-4905 is hereby amended to read as follows: 40-4905. (a) Subject to the provisions of K.S.A. 2016 Supp. 40-4904, and amendments thereto, it shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.

(b) Any person applying for a resident insurance agent license shall make application on a form prescribed by the commissioner. The applicant shall declare under penalty of perjury that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief. Before approving the application, the commissioner shall determine that the applicant:

- (1) Is at least 18 years of age;
- (2) has not committed any act that is grounds for denial pursuant to this section or suspension or revocation pursuant to K.S.A. 2016 Supp. 40-4909, and amendments thereto;
- (3) has paid a nonrefundable fee in the amount of \$30; and
- (4) has successfully passed the examination for each line of authority for which the applicant has applied.

(c) If the applicant is a business entity, then the commissioner shall make the following additional determinations in addition to those required by subsection (a):

- (1) The name and address of a licensed agent who shall be responsible for the business entity's compliance with the insurance laws of this state and the rules and regulations promulgated thereunder;
- (2) that each officer, director, partner and employee of the business entity who acts as an insurance agent is licensed as an insurance agent;
- (3) that the business entity has disclosed to the department all of its officers, directors and partners whether or not such officers, directors, partners and employees are licensed as insurance agents; and
- (4) that the business entity has disclosed to the department each officer, director, partner and employee who is licensed as an insurance agent.

(d) Any business entity which acts as an insurance agent and holds a direct agency appointment from an insurance company shall be required to obtain an insurance agent license.

(e) The commissioner may require the applicant to furnish any document or other material reasonably necessary to verify the information contained in an application.

(f) Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide a program of instruction that may be approved by the commissioner to each individual employed by or acting on behalf of such insurer to sell, solicit or negotiate limited line credit insurance.

(g) (1) Each licensed insurance agent shall notify the commissioner of any officer, director, partner or employee of such insurance agent who:

(A) Is licensed as an individual insurance agent; and  
(B) was not disclosed in such insurance agent's application for a license or any renewal thereof.

(2) Each licensed insurance agent shall notify the commissioner of any of its officers, directors, partners or employees who:

(A) Have terminated such relationship as an officer, director, partner or employee of such insurance agent; and

(B) has been previously disclosed in such insurance agent's application for a license or any renewal thereof.

(3) Each licensed insurance agent shall notify the commissioner within 30 working days of occurrence of any event required to be reported under paragraphs (1) or (2) of this subsection. Failure to provide the commissioner with the information required by this subsection shall subject the licensee to a monetary penalty of \$10 per day for each working day the required information is late subject to a maximum of \$50 per person per licensing year.

(h) Any applicant whose application for a license; is denied shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

*(i) (1) The commissioner may require a person applying for a resident insurance agent license to be fingerprinted and submit to a state and 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 commissioner 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. Local and state law enforcement officers and agencies shall assist the commissioner in the taking and processing of fingerprints of applicants and shall release all records of an applicant's arrests and convictions to the commissioner.*

*(2) The commissioner may conduct, or have a third party conduct, a background check on a person applying for a resident insurance agent license.*

*(3) Whenever the commissioner requires fingerprinting, a background check, or both, any associated costs shall be paid by the applicant.*

*(4) The commissioner may use the information obtained from a background check, fingerprinting and the applicant's criminal history only for purposes of verifying the identification of any applicant and in the official determination of the fitness of the applicant to be issued a license as an insurance agent in accordance with this act.*

*(5) A person applying for a resident insurance agent license who has been fingerprinted and has submitted to a state and national criminal history record check within the past 12 months in connection with the successful issuance or renewal of any other state-issued license may submit proof of such good standing to the commissioner in lieu of submitting to*

*the fingerprinting and criminal history record checks described in subsections (i)(1) and (i)(2).*

Sec. 4. K.S.A. 2016 Supp. 40-4905 is hereby repealed.

Sec. 5. On and after January 1, 2018, K.S.A. 2016 Supp. 40-4903 is hereby repealed.

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

Approved May 15, 2017.

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CHAPTER 70

HOUSE BILL No. 2085  
(Amended by Chapter 100)

AN ACT concerning driving; relating to driving under the influence and other driving offenses; authorized restrictions of driving privileges, ignition interlock device; expungement of convictions and diversions; amending K.S.A. 2016 Supp. 8-1015, 12-4516 and 21-6614 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 12-4516e, 21-6614g and 21-6614h.

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

Section 1. K.S.A. 2016 Supp. 8-1015 is hereby amended to read as follows: 8-1015. (a) (1) Except as provided in subsection (a)(2), whenever a person’s driving privileges have been suspended for one year as provided in K.S.A. 8-1014(a), and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person’s driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(2) Whenever a person’s driving privileges have been suspended for one year as provided in K.S.A. 8-1014(a)(1), and amendments thereto, after 90 days of such suspension, such person may apply to the division for such person’s driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

(3) Except as provided in subsection (a)(4), whenever a person’s driving privileges have been suspended for one year as provided in K.S.A. 8-1014(b), and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person’s driving privileges to be restricted for the remainder of the one-year suspension period to driv-

ing only a motor vehicle equipped with an ignition interlock device and only for the purposes of getting to and from: Work, school or an alcohol treatment program; and the ignition interlock provider for maintenance and downloading of data from the device.

(4) Whenever a person's driving privileges have been suspended for one year as provided in K.S.A. 8-1014(b)(2)(A), and amendments thereto, after 45 days of such suspension, such person may apply to the division for such person's driving privileges to be restricted for the remainder of the one-year suspension period to driving only a motor vehicle equipped with an ignition interlock device and only: Under the circumstances provided by K.S.A. 8-292(a)(1), (2), (3) and (4), and amendments thereto; and for the purpose of getting to and from the ignition interlock provider for maintenance and downloading of data from the device.

(5) The division shall assess an application fee of \$100 for a person to apply to modify the suspension to restricted ignition interlock status.

(6) The division shall approve the request for such restricted license unless such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court. If the request is approved, upon receipt of proof of the installation of such device, the division shall issue a copy of the order imposing such restrictions on the person's driving privileges and such order shall be carried by the person at any time the person is operating a motor vehicle on the highways of this state. Except as provided in K.S.A. 8-1017, and amendments thereto, if such person is convicted of a violation of the restrictions, such person's driving privileges shall be suspended for an additional year, in addition to any term of suspension or restriction as provided in K.S.A. 8-1014(a) or (b), and amendments thereto.

(b) (1) Except as provided in subsection (b)(2), when a person has completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and amendments thereto, the division shall restrict the person's driving privileges for 180 days to driving only a motor vehicle equipped with an ignition interlock device.

(2) When a person has completed the suspension pursuant to K.S.A. 8-1014(b)(1)(A), and amendments thereto, the division shall restrict the person's driving privileges for one year to driving only a motor vehicle equipped with an ignition interlock device if the records maintained by the division indicate that such person has previously: (A) Been convicted of a violation of K.S.A. 8-1599, and amendments thereto; (B) been convicted of a violation of K.S.A. 41-727, and amendments thereto; (C) been convicted of any violations listed in K.S.A. 8-285(a), and amendments thereto; (D) been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period; or (E) had such person's driving privileges revoked, suspended, canceled or withdrawn.

(c) Except as provided in subsection (b), when a person has com-

pleted the suspension pursuant to K.S.A. 8-1014(a) or (b), and amendments thereto, the division shall restrict the person's driving privileges pursuant to K.S.A. 8-1014(a) or (b), and amendments thereto, to driving only a motor vehicle equipped with an ignition interlock device. Upon restricting a person's driving privileges pursuant to this subsection, the division shall issue a copy of the order imposing the restrictions which is required to be carried by the person at any time the person is operating a motor vehicle on the highways of this state.

(d) Whenever an ignition interlock device is required by law, such ignition interlock device shall be approved by the division and maintained at the person's expense. Proof of the installation of such ignition interlock device, for the entire period required by the applicable law, shall be provided to the division before the person's driving privileges are fully reinstated. *Every person who has an ignition interlock device installed as required by law shall be required to complete the ignition interlock device program pursuant to rules and regulations adopted by the secretary of revenue and proof of completion shall be provided to the division by the approved service provider before the person's driving privileges are fully reinstated.*

(e) Except as provided further, any person whose license is restricted to operating only a motor vehicle with an ignition interlock device installed may operate an employer's vehicle without an ignition interlock device installed during normal business activities, provided that the person does not partly or entirely own or control the employer's vehicle or business. The provisions of this subsection shall not apply to any person whose driving privileges have been restricted for the remainder of the one-year suspension period as provided in subsection (a)(1) or (a)(3).

(f) Upon expiration of the period of time for which restrictions are imposed pursuant to this section, the licensee may apply to the division for the return of any license previously surrendered by the licensee. If the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's driving privileges have been suspended or revoked prior to expiration.

(g) Any person who has had the person's driving privileges suspended, restricted or revoked pursuant to K.S.A. 8-1014(a), (b) or (c), prior to the amendments by section 16 of chapter 172 of the 2012 Session Laws of Kansas and section 14 of chapter 105 of the 2011 Session Laws of Kansas, may apply to the division to have the suspension, restriction or revocation penalties modified in conformity with the provisions of K.S.A. 8-1014(a), (b) or (c), and amendments thereto. The division shall assess an application fee of \$100 for a person to apply to modify the suspension, restriction or revocation penalties previously issued. The division shall modify the suspension, restriction or revocation penalties, un-

less such person's driving privileges have been restricted, suspended, revoked or disqualified pursuant to another action by the division or a court.

(h) The division shall remit all application fees collected pursuant to subsections (a) and (g) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the division of vehicles operating fund until an aggregate amount of \$100,000 is credited to the division of vehicles operating fund each fiscal year. On and after an aggregate amount of \$100,000 is credited to such fund each fiscal year, the entire amount of such remittance shall be credited to the community corrections supervision fund created by K.S.A. 2016 Supp. 75-52,113, and amendments thereto. The application fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such application. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 2. K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 Supp. 8-1025, and amendments thereto.

(3) *The provisions of this subsection shall apply to all violations committed on or after July 1, 2006.*

(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. 2016 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. 2016 Supp. 75-7c01 et seq., and amendments thereto; *or*

(L) *for applications received on and after July 1, 2016, to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, 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 represen-

tative by such agency and the application was submitted by the person whose record has been expunged;

(13) the attorney general, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to:

(A) Carry a concealed weapon pursuant to the personal and family protection act; or

(B) *act as a bail enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, and amendments thereto;*

(14) the Kansas sentencing commission;

(15) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or

(16) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto.

Sec. 3. K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 Supp. 8-1025, and amendments thereto.

(3) *Except as provided further, the provisions of this subsection shall apply to all violations committed on or after July 1, 2006. The provisions of subsection (d)(2) shall not apply to violations committed on or after July 1, 2014, but prior to July 1, 2015.*

(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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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, 2015, through 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. 2016 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. 2016 Supp. 75-7c01 et seq., and amendments thereto; *or*

*(L) for applications received on and after July 1, 2016, to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, 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. 2016 Supp. 21-6304(a)(3)(A), and amendments thereto, the expungement of a prior felony conviction does not relieve the individual of complying with any state or federal law relating to the use, shipment, transportation, receipt or possession of firearms by persons previously convicted of a felony.

(1) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the

request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to:

(A) Carry a concealed weapon pursuant to the personal and family protection act; or

(B) *act as a bail enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, and amendments thereto*; or

(17) the Kansas bureau of investigation for the purposes of:

(A) Completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(m) The provisions of subsection (l)(17) shall apply to records created prior to, on and after July 1, 2011.

Sec. 4. K.S.A. 2016 Supp. 8-1015, 12-4516, 12-4516e, 21-6614, 21-6614g and 21-6614h are hereby repealed.

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

Approved May 15, 2017.

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## CHAPTER 71

### HOUSE BILL No. 2153

AN ACT concerning public benefit corporations; relating to the Kansas general corporation code; business entity standard treatment act; amending K.S.A. 2016 Supp. 17-6014, 17-6712, 17-7903 and 17-7919 and repealing the existing sections.

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

New Section 1. Sections 1 through 9, and amendments thereto, apply to all public benefit corporations, as defined in section 2, and amendments thereto. If a corporation elects to become a public benefit corporation under sections 1 through 9, and amendments thereto, in the manner prescribed in sections 1 through 9, and amendments thereto, it shall be subject in all respects to the provisions of the Kansas general corporation code, except to the extent sections 1 through 9, and amendments thereto, impose additional or different requirements, in which case such requirements shall apply.

New Sec. 2. (a) A "public benefit corporation" is a for-profit corporation organized under and subject to the requirements of the Kansas general corporation code that is intended to produce a public benefit or public benefits and to operate in a responsible and sustainable manner. To that end, a public benefit corporation shall be managed in a manner

that balances the stockholders' pecuniary interests, the best interests of those materially affected by the corporation's conduct and the public benefit or public benefits identified in its articles of incorporation. In the articles of incorporation, a public benefit corporation shall:

(1) Identify within its statement of business or purpose pursuant to K.S.A. 17-6002(a)(3), and amendments thereto, one or more specific public benefits to be promoted by the corporation; and

(2) state within its heading the name of the corporation and that it is a public benefit corporation pursuant to K.S.A. 2016 Supp. 17-7919(b), and amendments thereto.

(b) "Public benefit" means a positive effect, or reduction of negative effects, on one or more categories of persons, entities, communities or interests, other than stockholders in their capacities as stockholders, including, but not limited to, effects of an artistic, charitable, cultural, economic, educational, environmental, literary, medical, religious, scientific or technological nature. "Public benefit provisions" means the provisions of the articles of incorporation contemplated by this section.

(c) If the name of a public benefit corporation does not contain language stated in K.S.A. 2016 Supp. 17-7919(b)(1) through (4), and amendments thereto, the corporation shall, prior to issuing unissued shares of stock or disposing of treasury shares, provide notice to any person to whom such stock is issued or who acquires such treasury shares that it is a public benefit corporation; but such notice need not be provided if the issuance or disposal is pursuant to an offering registered under the securities act of 1933, 15 U.S.C. § 77r et seq., or if, at the time of issuance or disposal, the corporation has a class of securities that is registered under the securities exchange act of 1934, 15 U.S.C. § 78a et seq.

New Sec. 3. (a) Notwithstanding any other provisions of the Kansas general corporation code, a corporation that is not a public benefit corporation, may not, without the approval of  $\frac{2}{3}$  of the outstanding stock of the corporation entitled to vote thereon:

(1) Amend its articles of incorporation to include a provision authorized by section 2(a)(1), and amendments thereto; or

(2) merge or consolidate with or into another entity if, as a result of such merger or consolidation, the shares in such corporation would become, or be converted into or exchanged for the right to receive, shares or other equity interests in a domestic or foreign public benefit corporation or similar entity.

The restrictions of this section shall not apply prior to the time that the corporation has received payment for any of its capital stock.

(b) Except as provided in subsection (e), any stockholder of a corporation that is not a public benefit corporation shall be entitled to an appraisal by the district court of the fair value of the stockholder's shares of stock if such stockholder:

(1) Holds shares of stock of such corporation immediately prior to the effective time of:

(A) An amendment to the corporation's articles of incorporation to include a provision authorized by section 2(a)(1), and amendments thereto; or

(B) a merger or consolidation that would result in the conversion of the corporation's stock into or exchange of the corporation's stock for the right to receive shares or other equity interests in a domestic or foreign public benefit corporation or similar entity; and

(2) has neither voted in favor of such amendment or such merger or consolidation nor consented thereto in writing pursuant to K.S.A. 17-6518, and amendments thereto.

(c) Notwithstanding any other provisions of the Kansas general corporation code, a corporation that is a public benefit corporation may not, without the approval of  $\frac{2}{3}$  of the outstanding stock of the corporation entitled to vote thereon:

(1) Amend its articles of incorporation to delete or amend a provision authorized by section 2(a)(1) or 6(f), and amendments thereto; or

(2) merge or consolidate with or into another entity if, as a result of such merger or consolidation, the shares in such corporation would become, or be converted into or exchanged for the right to receive, shares or other equity interests in a domestic or foreign corporation that is not a public benefit corporation or similar entity and the articles of incorporation, or similar governing instrument, of which does not contain the identical provisions identifying the public benefit or public benefits pursuant to section 2(a)(1), and amendments thereto, or imposing requirements pursuant to section 6(f), and amendments thereto.

(d) Except as provided in subsection (e), any stockholder of a corporation that is a public benefit corporation shall be entitled to an appraisal by the district court of the fair value of the stockholder's shares of stock if such stockholder:

(1) Holds shares of stock of such corporation immediately prior to the effective time of:

(A) An amendment to the corporation's articles of incorporation to remove a provision authorized by section 2(a)(1), and amendments thereto; or

(B) a merger or consolidation that would result in the conversion of the corporation's stock into or exchange of the corporation's stock for the right to receive shares or other equity interests in a domestic or foreign entity other than a public benefit corporation or similar entity; and

(2) has neither voted in favor of such amendment or such merger or consolidation nor consented thereto in writing pursuant to K.S.A. 17-6518, and amendments thereto.

(e) 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 the meeting of stockholders to act upon the agreement of merger or consolidation or amendment, were either: (1) Listed on a national securities exchange; or (2) held of record by more than 2,000 holders, unless, in the case of a merger or consolidation, the holders thereof are required by the terms of an agreement of merger or consolidation to accept for such stock anything except: (A) Shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock, or depository receipts in respect thereof, or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 holders; (B) cash in lieu of fractional shares or fractional depository receipts described in subparagraph (A); or (C) any combination of the shares of stock, depository receipts and cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A) and (B).

New Sec. 4. Any stock certificate issued by a public benefit corporation shall note conspicuously that the corporation is a public benefit corporation formed pursuant to sections 1 through 9, and amendments thereto. Any notice sent by a public benefit corporation pursuant to K.S.A. 17-6401(f), and amendments thereto, shall state conspicuously that the corporation is a public benefit corporation formed pursuant to sections 1 through 9, and amendments thereto.

New Sec. 5. (a) The board of directors shall manage or direct the business and affairs of the public benefit corporation in a manner that balances the pecuniary interests of the stockholders, the best interests of those materially affected by the corporation's conduct and the specific public benefit or public benefits identified in its articles of incorporation.

(b) A director of a public benefit corporation shall not, by virtue of the public benefit provisions or section 2(a), and amendments thereto, have any duty to any person on account of any interest of such person in the public benefit or public benefits identified in the articles of incorporation or on account of any interest materially affected by the corporation's conduct and, with respect to a decision implicating the balance requirement in subsection (a), will be deemed to satisfy such director's fiduciary duties to stockholders and the corporation if such director's decision is both informed and disinterested and not such that no person of ordinary, sound judgment would approve.

(c) The articles of incorporation of a public benefit corporation may include a provision that any disinterested failure to satisfy this section shall not, for the purposes of K.S.A. 17-6002(b)(8) or 17-6305, and amendments thereto, constitute an act or omission not in good faith, or a breach of the duty of loyalty.

New Sec. 6. (a) A public benefit corporation shall include in every notice of a meeting of stockholders a statement to the effect that it is a

public benefit corporation formed pursuant to sections 1 through 9, and amendments thereto.

(b) A public benefit corporation shall no less than annually provide its stockholders with a statement as to the corporation's promotion of the public benefit or public benefits identified in the articles of incorporation and of the best interests of those materially affected by the corporation's conduct. The statement shall include:

(1) The objectives the board of directors has established to promote such public benefit or public benefits and interests;

(2) the standards the board of directors has adopted to measure the corporation's progress in promoting such public benefit or public benefits and interests;

(3) objective factual information based on those standards regarding the corporation's success in meeting the objectives for promoting such public benefit or public benefits and interests; and

(4) an assessment of the corporation's success in meeting the objectives and promoting such public benefit or public benefits and interests.

(c) A public benefit corporation shall provide the statement described in subsection (b) to its stockholders at the time prescribed by K.S.A. 17-7503, and amendments thereto, for the filing of the public benefit corporation's annual report.

(d) The statement described in subsection (b) shall be based on a third-party standard. A "third-party standard" means a standard for defining, reporting and assessing promotion of the public benefit or public benefits and interests identified in the public benefit corporation's articles of incorporation that: (1) Is developed by a person or entity that is independent of the public benefit corporation; and (2) is transparent because the following information about the standard is publicly available: (A) The factors considered when measuring the performance of a business; (B) the relative weightings of those factors; and (C) the identity of the persons who developed the standard and who control changes to the standard and the process by which those changes are made. For purposes of this section, the term "independent" means having no material relationship with the public benefit corporation or any of its directors, officers, or affiliates, as determined by the board of the public benefit corporation or a committee thereof.

(e) A public benefit corporation shall post its most recent statement described in subsection (b) on the public portion of its website, if any, concurrently with the delivery of such statement to its stockholders under subsection (c). If a public benefit corporation does not have a website, it shall provide a copy of such statement, without charge, to any person that requests a copy. The compensation paid to directors and any other financial or proprietary information contained in the statement described in subsection (b) may be omitted from any statement that is publicly posted



or provided to any person pursuant to this subsection, other than a statement provided to a stockholder, director or officer.

(f) The articles of incorporation or bylaws of a public benefit corporation may require that the corporation obtain a periodic third-party certification addressing the corporation's promotion of the public benefit or public benefits identified in the articles of incorporation or the best interests of those materially affected by the corporation's conduct, or both.

New Sec. 7. Stockholders of a public benefit corporation owning individually or collectively, as of the date of instituting such derivative suit, at least 2% of the corporation's outstanding shares or, in the case of a corporation with shares listed on a national securities exchange, the lesser of such percentage or shares of at least \$2,000,000 in market value, may maintain a derivative lawsuit to enforce the requirements set forth in section 5(a), and amendments thereto.

New Sec. 8. Sections 1 through 9, and amendments thereto, shall not affect a statute or rule of law that is or would be applicable to any corporation that is organized under the Kansas general corporation code but is not a public benefit corporation, except as provided in section 3, and amendments thereto.

New Sec. 9. Sections 1 through 9, and amendments thereto, shall be part of and supplemental to the Kansas general corporation code, articles 60 through 74 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 10. K.S.A. 2016 Supp. 17-6014 is hereby amended to read as follows: 17-6014. (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 K.S.A. 2016 Supp. 17-6014, 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 K.S.A. 2016 Supp. 17-6427, 17-6428 ~~and~~, 17-6429 *and section 4*, 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 K.S.A. 2016 Supp. 17-6011(a)(2) and (a)(3), and amendments thereto; and

(3) article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, *and sections 1 through 9, 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.~~

Sec. 11. K.S.A. 2016 Supp. 17-6712 is hereby amended to read as follows: 17-6712. (a) 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 corporation; the words “stock” and “share” mean and include what is ordinarily meant by those words; 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) 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 K.S.A. 17-6701(g), and amendments thereto, and, subject to subsection (b)(3), K.S.A. 17-7601(h), 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto:

(1) *Except as expressly provided in section 3, and amendments thereto*, 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 the meeting of stockholders to act upon the agreement of merger or consolidation, were either: (A) Listed on a national securities exchange; or (B) held of record by more than 2,000 holders, 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 K.S.A. 17-6701(f), and amendments thereto.

(2) Notwithstanding 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, 17-6705, 17-6706, 17-6707 and 17-6708, 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 thereof;

(B) shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock, or depository receipts in respect thereof, or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 holders;

(C) cash in lieu of fractional shares or fractional depository receipts described in 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 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 immediately prior to

the merger, appraisal rights shall be available for the shares of the subsidiary Kansas corporation.

(4) *In the event of an amendment to a corporation's articles of incorporation contemplated by section 3, and amendments thereto, appraisal rights shall be available as contemplated by section 3, and amendments thereto, and the procedures of this section, including those set forth in subsections (d) and (e), shall apply as nearly as practicable, with the word "amendment" substituted for the words "merger or consolidation," and the word "corporation" substituted for the words "constituent corporation" or "surviving or resulting 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 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 non-stock corporation, a copy of K.S.A. 2016 Supp. 17-6014, 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 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 K.S.A. 2016 Supp. 17-6014, 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 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 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 surviving 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. If 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 the court determines the stockholders entitled to an appraisal, the 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 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. 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, proceed to trial upon the appraisal prior to the final determination of the 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. 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 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. 12. K.S.A. 2016 Supp. 17-7903 is hereby amended to read as follows: 17-7903. The following documents related to corporations shall be filed with the secretary of state:

(a) For-profit filings:

(1) For-profit articles of incorporation as set forth in K.S.A. 17-6002, and amendments thereto;

(2) professional association articles of incorporation as set forth in K.S.A. 17-2709, 17-2711 and 17-6002, and amendments thereto;

(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) *public benefit corporation articles of incorporation as set forth in section 2, and amendments thereto;*



(5) certificate of validation as set forth in K.S.A. 2016 Supp. 17-6428, and amendments thereto;

~~(5)~~(6) foreign for-profit application for authority as set forth in K.S.A. 2016 Supp. 17-7931 and K.S.A. 17-7307 through 17-7510, and amendments thereto;

~~(6)~~(7) for-profit annual report as set forth in K.S.A. 17-7503 and 17-7505, and amendments thereto;

~~(7)~~(8) professional association annual report as set forth in K.S.A. 17-2718, and amendments thereto;

~~(8)~~(9) 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;

~~(9)~~(10) amendment to professional associations as set forth in K.S.A. 17-2709, and amendments thereto;

~~(10)~~(11) foreign for-profit corporation certificate of amendment as set forth in K.S.A. 17-7302, and amendments thereto;

~~(11)~~(12) restated articles of incorporation as set forth in K.S.A. 17-6605, and amendments thereto;

~~(12)~~(13) change of registered office or resident agent as set forth in K.S.A. 2016 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

~~(13)~~(14) for-profit certificate of correction as set forth in K.S.A. 2016 Supp. 17-7912, and amendments thereto;

~~(14)~~(15) mergers as set forth in K.S.A. 17-6701 through 17-6708, and amendments thereto;

~~(15)~~(16) foreign mergers as set forth in K.S.A. 17-7302, and amendments thereto;

~~(16)~~(17) certificate of amendment or termination of merger as set forth in K.S.A. 17-6701, and amendments thereto;

~~(17)~~(18) foreign corporation merger as set forth in K.S.A. 17-7302, and amendments thereto;

~~(18)~~(19) certificate of reinstatement as set forth in K.S.A. 17-7002, and amendments thereto;

~~(19)~~(20) certificate of dissolution prior to commencing business as set forth in K.S.A. 17-6803, and amendments thereto;

~~(20)~~(21) certificate of dissolution by stockholder's meeting as set forth in K.S.A. 17-6804, and amendments thereto;

~~(21)~~(22) certificate of dissolution by written consent as set forth in K.S.A. 17-6804, and amendments thereto;

~~(22)~~(23) foreign certificate of cancellation as set forth in K.S.A. 2016 Supp. 17-7936, and amendments thereto; and

~~(23)~~(24) certificate of revocation of dissolution as set forth in K.S.A. 17-7001, and amendments thereto.

(b) Not-for-profit filings:

(1) Not-for-profit articles of incorporation as set forth in K.S.A. 17-6002, and amendments thereto;

(2) foreign not-for-profit application for authority as set forth in K.S.A. 2016 Supp. 17-7931, and amendments thereto;

(3) not-for-profit annual report as set forth in K.S.A. 17-7504, and amendments thereto;

(4) not-for-profit certificate of amendment as set forth in K.S.A. 17-6602, and amendments thereto;

(5) not-for-profit certificate of correction as set forth in K.S.A. 2016 Supp. 17-7912, and amendments thereto;

(6) not-for-profit change of registered office or resident agent as set forth in K.S.A. 2016 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

(7) not-for-profit certificate of reinstatement as set forth in K.S.A. 17-7002, and amendments thereto; and

(8) certificate of dissolution as set forth in K.S.A. 17-6803, 17-6804 and 17-6805, and amendments thereto.

Sec. 13. K.S.A. 2016 Supp. 17-7919 is hereby amended to read as follows: 17-7919. (a) The name of a corporation, except for banks, savings and loan associations ~~and~~, savings banks *and public benefit corporations*, shall contain:

~~(a)~~(1) One of the following words: “Association”; “church”; “college”; “company”; “corporation”; “club”; “foundation”; “fund”; “incorporated”; “institute”; “society”; “union”; “university”; “syndicate” or “limited”;

~~(b)~~(2) one of the following abbreviations: “Co.”; “corp.”; “inc.” or “ltd.”; or

~~(c)~~(3) words or abbreviations of like import in other languages if they are written in Roman characters or letters.

(b) *The name of a public benefit corporation shall contain either or both of one of the words, abbreviations or designations in subsection (a) or:*

(1) *The words “public benefit corporation”;*

(2) *the abbreviation “P.B.C.”;*

(3) *the designation “PBC”; or*

(4) *words or abbreviations of like import in other languages if they are written in Roman characters or letters.*

Sec. 14. K.S.A. 2016 Supp. 17-6014, 17-6712, 17-7903 and 17-7919 are hereby repealed.

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

Approved May 15, 2017.

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## CHAPTER 72

## SENATE BILL No. 16

AN ACT concerning insurance; relating to the insurance holding company act; credit for reinsurance; exemption of certain service contracts from regulation as insurance; amending K.S.A. 2016 Supp. 40-201a and 40-221a and repealing the existing sections.

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

New Section 1. (a) The commissioner is authorized to act as the group-wide supervisor for any internationally active insurance group in accordance with the provisions of this section. However, the commissioner may acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:

- (1) Does not have substantial insurance operations in the United States;
- (2) has substantial insurance operations in the United States, but not in this state; or
- (3) has substantial insurance operations in the United States and this state, but the commissioner has determined pursuant to the factors set forth in subsections (b) and (f) that the other regulatory official is the appropriate group-wide supervisor.

An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the commissioner make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.

(b) In cooperation with other state, federal and international regulatory agencies, the commissioner shall identify a single group-wide supervisor for an internationally active insurance group. The commissioner may determine that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. However, the commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The commissioner shall consider the following factors when making a determination or acknowledgment under this subsection:

- (1) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets or liabilities;
- (2) the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group;
- (3) the location of the executive offices or largest operational offices of the internationally active insurance group;
- (4) whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the commissioner determines to be:

(A) Substantially similar to the system of regulation provided under the laws of this state; or

(B) otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis and cooperation with other regulatory officials; and

(5) whether another regulatory official acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

A commissioner identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made after consideration of the factors listed in subsections (b)(1) through (b)(5), and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with the supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.

(c) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group-wide supervisor. However, pursuant to subsection (b), the commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for an internationally active insurance group, if it makes a material change in such internationally active insurance group that results in:

(1) The internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets or liabilities; or

(2) this state being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

(d) Pursuant to K.S.A. 40-3307, and amendments thereto, the commissioner is authorized to collect from any insurer registered pursuant to K.S.A. 40-3305, and amendments thereto, all information necessary to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group or if the commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the commissioner, the commissioner shall notify the insurer registered pursuant to K.S.A. 40-3305, and amendments thereto, and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have not less than 30 days to provide the commissioner with additional information pertinent to the pending determination. The commissioner shall publish on its Kansas insurance

department website the identities of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

(e) If the commissioner is the group-wide supervisor for an internationally active insurance group, the commissioner is authorized to engage in any of the following group-wide supervision activities:

(1) Assessing the enterprise risks within the internationally active insurance group to ensure that:

(A) The material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by management; and

(B) reasonable and effective mitigation measures are in place;

(2) requesting, from any member of an internationally active insurance group, subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the internationally active insurance group regarding:

(A) Governance, risk assessment and management;

(B) capital adequacy; and

(C) material intercompany transactions;

(3) coordinating and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compelling development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of such internationally active insurance group that are engaged in the business of insurance;

(4) communicating with other state, federal and international regulatory agencies for members within the internationally active insurance group and sharing relevant information subject to the confidentiality provisions of K.S.A. 40-3308, and amendments thereto, through supervisory colleges as set forth in K.S.A. 40-3316, and amendments thereto, or otherwise;

(5) entering into agreements with or obtaining documentation from any insurer registered under subsection (e)(3), any member of the internationally active insurance group, and any other state, federal and international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state; and

(6) participating in other group-wide supervision activities, consistent

with the authorities granted and purposes enumerated above, as considered necessary by the commissioner.

(f) If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the national association of insurance commissioners is the group-wide supervisor, the commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that:

(1) The commissioner's cooperation is in compliance with the laws of this state; and

(2) the regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable. Where such recognition and cooperation is not reasonably reciprocal, the commissioner is authorized to refuse recognition and cooperation.

(g) The commissioner is authorized to enter into agreements with, or obtain documentation from, any insurer registered under K.S.A. 40-3305, and amendments thereto, any affiliate of the insurer, and other state, federal and international regulatory agencies for members of the internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(h) The commissioner may promulgate such rules and regulations as are necessary for the administration of this section. Such rules and regulations shall be adopted no later than July 1, 2018.

(i) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries and any other professionals and all reasonable travel expenses.

(j) This section shall be a part of and supplemental to the insurance holding company act.

New Sec. 2. (a) (1) Nothing in this section shall be construed to prescribe or impose corporate governance standards and internal procedures beyond those required by state corporate law. However, nothing in this section shall be construed to limit the commissioner's authority, or the rights and obligations of third parties under K.S.A. 40-222, and amendments thereto.

(2) The requirements of this section shall apply to all insurers domiciled in this state.

(b) As used in this section:

(1) "Commissioner" means the commissioner of insurance of the state of Kansas.

(2) "Corporate governance annual disclosure" or "CGAD" means a

confidential report filed by the insurer or insurance group made in accordance with the requirements of this section.

(3) “Insurance group” means those insurers and affiliates included within an insurance holding company system as defined in K.S.A. 40-3302, and amendments thereto.

(4) “Insurer” shall have the same meaning as set forth in K.S.A. 40-3302, and amendments thereto, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state.

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

(6) “ORSA summary report” means the report filed in accordance with risk management and own risk and solvency assessment act.

(c) (1) An insurer or the insurance group of which the insurer is a member shall, no later than June 1 of each calendar year, submit to the commissioner a CGAD that contains the information described in subsection (e). Notwithstanding any request from the commissioner made pursuant to subsection (c)(3), if an insurer is a member of an insurance group, the insurer shall submit the report required by this section to the commissioner of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures outlined in the most recent financial analysis handbook adopted by the national association of insurance commissioners.

(2) The CGAD must include a signature of the insurer or insurance group’s chief executive officer or corporate secretary attesting to the best of that individual’s belief and knowledge that the insurer has implemented the corporate governance practices and that a copy of the disclosure has been provided to the insurer’s board of directors or the appropriate committee of the insurer thereof.

(3) An insurer not required to submit a CGAD under this section shall do so upon the commissioner’s request.

(4) For purposes of completing the CGAD, the insurer or insurance group may provide information regarding corporate governance at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level or both, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer’s or insurance group’s risk appetite is determined, or at which the earnings, capital, liquidity, operations and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which of the three

criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting.

(5) The review of the CGAD and any additional requests for information shall be made through the lead state as determined by the procedures within the most recent financial analysis handbook referenced in subsection (c)(1).

(6) Insurers providing information substantially similar to the information required by this section in other documents provided to the commissioner, including proxy statements filed in conjunction with other state or federal filings or other requirements provided to the commissioner, shall not be required to duplicate that information in the CGAD, but shall only be required to cross reference the document in which the information is included.

(d) The commissioner is hereby authorized to adopt any rules and regulations as are necessary to carry out the provisions of this section. Such rules and regulations shall be adopted no later than January 1, 2019.

(e) (1) The insurer or insurance group shall have discretion over the responses to the CGAD inquiries, provided the CGAD shall contain the material information necessary to permit the commissioner to gain an understanding of the insurer's or group's corporate governance structure, policies and practices. The commissioner may request additional information deemed material and necessary to provide the commissioner with a clear understanding of the corporate governance policies, the reporting or information system or controls implementing those policies.

(2) The CGAD shall be prepared consistent with all department of insurance rules and regulations and documentation. Documentation supporting information shall be maintained and made available upon the commissioner's request.

(f) (1) Documents, materials or other information, including the CGAD, in the possession or control of the department of insurance that are obtained, created by or disclosed to the commissioner or any other person under this section, are recognized by this state as being proprietary and containing trade secrets. All such documents, materials or other information shall be confidential by law and privileged, and shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer. Nothing in this section shall be construed to require the written consent of the insurer before the commissioner may share or receive confidential documents, materials or other CGAD-related information pursuant to subsection (f)(3) to assist



in the performance of the commissioner's regular duties. The provisions of this subsection shall expire on July 1, 2022, unless the legislature reviews and reenacts this provision pursuant to K.S.A 45-229, and amendments thereto, prior to July 1, 2022.

(2) Neither the commissioner nor any person who received documents, materials or other CGAD-related information, through examination or otherwise, while acting under the authority of the commissioner, or with whom such documents, materials or other information are shared pursuant to this section, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (f)(1).

(3) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(A) May, upon request, share documents, materials or other CGAD-related information, including the confidential and privileged documents, materials or information subject to subsection (c)(1), including proprietary and trade secret documents and materials with other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in K.S.A. 40-3308, and amendments thereto, with the NAIC and with third-party consultants pursuant to subsection (g), provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, material or other information and has verified in writing the legal authority to maintain confidentiality; and

(B) may receive documents, materials or other CGAD-related information, including otherwise confidential and privileged documents, materials or information, including proprietary and trade secret information or documents, from regulatory officials of other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in the insurance holding company act and from the NAIC, and shall maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

(4) The sharing of information and documents by the commissioner pursuant to this section shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution and enforcement of the provisions of this section.

(5) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials or other CGAD-related information shall occur as a result of disclosure of such CGAD-related information or documents to the commissioner under this section or as a result of sharing as authorized in this section.

(g) (1) The commissioner may retain, at the insurer's expense, third-

party consultants, including attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the CGAD and related information or the insurer's compliance with this section.

(2) Any person retained under subsection (g)(1) shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

(3) The NAIC and third-party consultants shall be subject to the same confidentiality standards and requirements as the commissioner.

(4) As part of the retention process, a third-party consultant shall verify to the commissioner, with notice to the insurer, that it is free from a conflict of interest and that it has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this section.

(5) A written agreement with NAIC consultants or third-party consultants, or a combination of the same, governing sharing and use of information provided pursuant to this section shall contain the following provisions and expressly require the written consent of the insurer prior to making the information public as provided under this section:

(A) Specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with the NAIC or a third-party consultant pursuant to this section;

(B) procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(C) a provision specifying that ownership of the CGAD-related information shared with the NAIC or a third-party consultant remains with the department of insurance and the NAIC or third-party consultant's use of the information is subject to the direction of the commissioner;

(D) a provision that prohibits the NAIC or a third-party consultant from storing the information shared pursuant to this act in a permanent database after the underlying analysis is completed;

(E) a provision requiring the NAIC or third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure or request for production of the insurer's CGAD-related information; and

(F) a requirement that the NAIC or a third-party consultant consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this section.

(h) Any insurer failing, without just cause, to timely file the CGAD

as required in this section may be required, after notice and hearing, to pay a penalty for each day's delay, to be recovered by the commissioner, in accordance with any rules and regulations adopted by the commissioner. The commissioner shall remit all moneys received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the fees and penalties fund.

(i) If any provision of this section other than subsection (f), or the application thereof to any person or circumstance, is held invalid, such determination shall not affect the provisions or applications of this section, which can be given effect without the invalid provision or application, and to that end the provisions of this section, with the exception of subsection (f), are severable.

(j) The first filing of the CGAD shall be in 2018.

(k) The provisions of this section shall be effective on and after January 1, 2018.

Sec. 3. K.S.A. 2016 Supp. 40-201a is hereby amended to read as follows: 40-201a. (a) The marketing, sale, offering for sale, issuance, making, proposing to make and administration of a service contract shall not be construed to be the business of insurance and shall be exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(b) For the purposes of this section;

(1) "Service contract" means a contract or agreement for a separate or additional consideration, for any specified duration, to service, repair, replace or maintain all or any part of any structural component, appliance or utility system of any residential property, consumer good or other property; or to indemnify for service, repair, replacement or maintenance for consumer good or other property, due to a defect in materials, workmanship, normal wear and tear; or as a result of power surges or as a result of accidental damage from the handling of any consumer good or other property, with or without additional provision for indemnity payments, when service repair or replacement is not reasonably, commercially or economically feasible. *A service contract may also include additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental and emergency road service.*

(2) "Service contract" also includes any nonconsumer commercial service contract.

(3) "Service contract" does not include an automobile club service as defined in K.S.A. 40-2507, and amendments thereto.

(4) "Service contract" includes, but is not limited to, a contract that offers any one or more of the following services:

(A) *The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards;*

(B) *the removal of dents, dings or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding or painting; and*

(C) *the replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen.*

(5) *“Road hazard” means a hazard that is encountered while driving a motor vehicle, including, but not be limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs or composite scraps.*

(c) (1) No service contract ~~which~~ that is exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain any provision for consequential damages unless such consequential damages are caused by the failure of service, repair, replacement or maintenance rendered under the service contract.

(2) No service contract ~~which~~ that is exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain any provision, except as exempt by this section, ~~which~~ that would otherwise be covered by a contract of property or liability insurance issued in this state.

Sec. 4. On and after January 1, 2018, K.S.A. 2016 Supp. 40-221a is hereby amended to read as follows: 40-221a. (a) ~~Any insurance company organized under the laws of this state may (1) with the consent of the commissioner of insurance, cede all of its risks to any other solvent insurance company authorized to transact business in this state or accept all of the risks of any other company, (2) accept all or any part of an individual risk or all or any part of a particular class of risks which it is authorized to insure, and (3) cede all or any part of an individual risk or all or any part of a particular class of risks to another solvent insurer or insurers having the power to accept such reinsurance.~~

~~(b) Any insurance company organized under the laws of this state may take credit as an asset or as a deduction from loss and unearned premium reserves on such ceded risks to the extent reinsured by an insurer or insurers authorized to transact business in this state, but such credit on ceded risks reinsured by any insurer which is not authorized to transact business in this state may be taken in an amount not exceeding:~~

~~(1) The amount of deposits by, and funds withheld from, the assuming insurer pursuant to express provision therefor in the reinsurance contract, as security for the payment of the obligations thereunder, if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for such purposes in a qualified~~

United States financial institution, if withdrawals from such trust cannot be made without the consent of the ceding company;

(2) ~~the amount of a clean and irrevocable letter of credit issued by a qualified United States financial institution if such letter of credit is initially issued for a term of at least one year and by its terms is automatically renewed at each expiration date for at least an additional one-year term unless at least 30 days prior written notice of intention not to renew is given to the ceding company by the issuing qualified United States financial institution or the assuming company and provided that such letter of credit is issued under arrangements satisfactory to the commissioner of insurance as constituting security to the ceding insurer substantially equal to that of a deposit under paragraph (1) of this subsection, or~~

(3) ~~the amount of loss and unearned premium reserves on such ceded risks to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in (b)(3)(D), for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liability attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than \$20,000,000. In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group, the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.~~

(A) ~~Such trust must be in a form approved by the commissioner of insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States ceding insurers, their assigns and successors in interest. The trust and the assuming group or insurer shall be subject to examination as determined by the commissioner. The trust, described herein, must remain in effect for as long as~~

~~the assuming group or insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.~~

~~(B) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.~~

~~(C) The credit authorized under subsection (b)(3) shall not be allowed unless the assuming group or insurer agrees in the reinsurance agreements:~~

~~(i) That in the event of the failure of the assuming group or insurer to perform its obligations under the terms of the reinsurance agreement, the assuming group or insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal, and~~

~~(ii) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company.~~

~~(iii) This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation to do so is created in the agreement.~~

~~(D) (i) For the purposes of paragraphs (1) and (3) of subsection (b), a "qualified United States financial institution" means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:~~

~~(aa) Is organized, or (in the case of a U.S. branch or agency office of a foreign banking organization) licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and~~

~~(bb) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.~~

~~(ii) For the purposes of paragraph (2) of subsection (b), "qualified United States financial institution" means, for the purpose of those provisions of this law specifying those institutions that are eligible to issue a letter of credit, an institution that:~~

~~(aa) Is organized or (in the case of a United States office of a foreign banking organization) licensed, under the laws of the United States or any state thereof;~~

~~(bb) is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and~~

~~(cc) has been determined by the insurance commissioner to meet~~

such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

In making determinations under this clause, the commissioner may consult with the securities valuation office of the national association of insurance commissioners.

(c) ~~No credit shall be allowed, as an admitted asset or deduction from liability, to any ceding insurer organized under the laws of this state for reinsurance, unless the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable under a contract reinsured by the assuming insurer on the basis of the liability of the ceding company under the contract or contracts reinsured, as approved by the liquidation court, without diminution because of the insolvency of the ceding company. Any reinsurance agreement entered into with a domestic insurer which may be canceled on less than 90 days' notice, and which cancellation would constitute a material cancellation as defined by K.S.A. 40-2,156a, and amendments thereto, must provide in the reinsurance agreement, in substance, for a run-off of the reinsurance in force at the date of cancellation, unless the agreement is canceled for nonpayment of premium or fraud in the inducement. Reinsurance payments shall be made directly to the ceding insurer or to its domiciliary liquidator except: (1) Where the reinsurance contract or policy reinsured specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer; or (2) where the assuming insurer, with the consent of the direct insured, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.~~

(d) ~~The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against such ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated any defenses which it deems available to the ceding insurer, or its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account~~

*of reinsurance ceded only when the reinsurer meets the requirements of paragraphs (1), (2), (3), (4), (5) or (6). Credit shall be allowed under paragraphs (1), (2) or (3) of this subsection only as respects cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed only under paragraphs (3) or (4) of this subsection if the applicable requirements of paragraph (7) have been satisfied.*

*(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.*

*(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. In order to be eligible for accreditation, an assuming insurer must:*

*(A) File with the commissioner evidence of the assuming insurer's submission to this state's jurisdiction;*

*(B) submit to this state's authority to examine the assuming insurer's books and records;*

*(C) be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state;*

*(D) file annually with the commissioner a copy of the assuming insurer's annual statement filed with the insurance department of the assuming insurer's state of domicile and a copy of the assuming insurer's most recent audited financial statement; and*

*(E) demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet the assuming insurer's reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of the assuming insurer's application if it maintains a surplus as regards policyholders in an amount not less than \$20,000,000 and its accreditation has not been denied by the commissioner within 90 days after submission of its application.*

*(3) (A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:*

*(i) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000; and*



(ii) *submits to the authority of this state to examine the assuming insurer's books and records.*

(B) *The requirement of subsection (a)(3)(A)(i) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.*

(4) (A) *Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in subsection (c)(2), for the payment of the valid claims of the assuming insurer's United States ceding insurers, their assigns and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the commissioner and bear the expense of examination;*

(B) (i) *credit for reinsurance shall not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by either of the following:*

(a) *The commissioner of the state where the trust is domiciled; or*

(b) *the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.*

(ii) *The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer's beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to the trust's assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner.*

(iii) *The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the commissioner in writing the balance of the trust and the listing of the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.*

(C) *The following requirements apply to the following categories of the assuming insurer:*

(i) *The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in*

*addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000, except as provided in subsection (a)(4)(C)(ii).*

*(ii) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus shall not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust;*

*(iii) (a) in the case of a group including incorporated and individual unincorporated underwriters, all of the following requirements are met:*

*(1) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;*

*(2) for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this act, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and*

*(3) in addition to the trusts described in subsections (a)(4)(B)(iii)(a)(1) and (a)(4)(B)(iii)(a)(2), the group shall maintain in trust a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.*

*(b) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members of the group; and*

*(c) within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member, or if a certification is una-*

available, financial statements prepared by independent public accountants of each underwriter member of the group.

(iv) In the case of a group of incorporated underwriters under common administration, the group shall meet all of the following requirements:

(a) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation;

(b) maintain an aggregate policyholders' surplus of at least \$10,000,000,000;

(c) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(d) in addition, maintain a joint trustee surplus of which \$100,000,000 shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and

(e) within 90 days after the group's financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and the reinsurer secures its obligations in accordance with the following requirements:

(A) In order to be eligible for certification, the assuming insurer shall meet all of the following requirements:

(i) Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subsection (a)(5)(C);

(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to regulation;

(iii) maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner pursuant to regulation;

(iv) agree to submit to the jurisdiction of this state, appoint the commissioner as the assuming insurer's agent for service of process in this state, and agree to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment;

(v) agree to meet applicable information filing requirements as deter-

mined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and

(vi) satisfy any other requirements for certification deemed relevant by the commissioner.

(B) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subsection (a)(5)(A) and all of the following requirements:

(i) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection;

(ii) the incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members of the association; and

(iii) within 90 days after the association's financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member. If a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the association shall be provided instead.

(C) The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(i) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. In order to be recognized as a qualified jurisdiction, a jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction shall not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

(ii) A list of qualified jurisdictions shall be published through the na-

tional association of insurance commissioners' process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner recognizes a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under rules and regulations.

(iii) United States jurisdictions that meet the requirement for accreditation under the national association of insurance commissioners' financial standards and accreditation program shall be recognized as qualified jurisdictions.

(iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(D) The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to rules and regulations. The commissioner shall publish a list of all certified reinsurers and their ratings.

(E) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with the certified reinsurer's rating, as specified in rules and regulations promulgated by the commissioner.

(i) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of subsection (b), or in a multi-beneficiary trust in accordance with subsection (a)(4), except as otherwise provided in this subsection.

(ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to subsection (a)(4), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multi-beneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to subsection (a)(4). It shall be a condition to the grant of certification under subsection (a)(5) that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner who has principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, any deficiency of any other such trust account out of the remaining surplus of the terminated trust account.

(iii) The minimum trusteed surplus requirements provided in subsection (a)(4) are not applicable with respect to a multi-beneficiary trust maintained by a certified reinsurer for the purpose of securing obligations

*incurred under this subsection, except that such trust shall maintain a minimum trusteed surplus of \$10,000,000.*

*(iv) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and the commissioner has the discretion to impose further reductions in allowable credit upon finding there is a material risk that the certified reinsurer's obligations will not be paid in full when due.*

*(v) For purposes of this subsection, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100% of its obligations.*

*(a) As used in this paragraph, the term "terminated" includes revocation, suspension, voluntary surrender and inactive status.*

*(b) If the commissioner continues to assign a higher rating as permitted by other provisions of this subsection, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.*

*(F) If an assuming insurer applying for certification as a reinsurer in this state has been certified as a reinsurer in an another jurisdiction accredited by the national association of insurance commissioners, the commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this state.*

*(G) A certified reinsurer that ceases to assume new business in this state may request to maintain the reinsurer's certification in inactive status in order to continue to qualify for a reduction in amount of security required for the reinsurer's in force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.*

*(6) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that does not meet the requirements of subsections (a)(1) through (a)(5), but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.*

*(7) If the assuming insurer is not licensed, accredited or certified to transact insurance or reinsurance in this state, the credit permitted by subsections (a)(3) and (a)(4) of this section shall not be allowed, unless the assuming insurer agrees in the reinsurance agreement to do all of the following:*

*(A) (i) In the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, will: Submit to the jurisdic-*

*tion of any court of competent jurisdiction in any state of the United States; comply with all requirements necessary to give the court jurisdiction; and abide by the final decision of the court or of any appellate court in the event of an appeal; and*

*(ii) the assuming insurer will designate the commissioner or a designated attorney as its true and lawful attorney to receive lawful process in any action, suit or proceeding instituted by or on behalf of the ceding insurer.*

*(B) This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if the obligation is created in the agreement.*

*(8) If the assuming insurer does not meet the requirements of subsection (a)(1), (a)(2) or (a)(3), the credit permitted by subsection (a)(4) or (a)(5) shall not be allowed unless the assuming insurer agrees in a trust agreement to the following conditions:*

*(A) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because the trust fund contains an amount less than the amount required by subsection (a)(4)(C), or if the grantor of the trust has been declared insolvent or has been placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of the trust's state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer all of the assets of the trust fund to the commissioner with regulatory oversight over the trust.*

*(B) The assets shall be distributed and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.*

*(C) If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part of the trust fund are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets of the trust or part of those assets shall be returned by the commissioner with regulatory oversight over the trust to the trustee for distribution in accordance with the trust agreement.*

*(D) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with the provisions of this subsection.*

*(9) Credit for reinsurance ceded to a certified reinsurer is limited to reinsurance contracts entered or renewed on or after the effective date of the certification of the assuming insurer by the commissioner.*

*(10) If an accredited or certified reinsurer ceases to meet the requirements of this section for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.*

*(A) The commissioner shall give the reinsurer notice and opportunity*

for a hearing prior to such suspension or revocation. The suspension or revocation shall not take effect until after the commissioner's order on hearing, unless one of the following applies:

- (i) The reinsurer waives its right to a hearing;
- (ii) the commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or by the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subsection (a)(5)(F); or
- (iii) the commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(B) While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit, except to the extent that the reinsurer's obligations under the reinsurance contract are secured in accordance with subsection (b). If a reinsurer's accreditation or certification is revoked, credit for reinsurance shall not be granted after the effective date of the revocation, except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (a)(5)(A) or (a)(5)(B).

(11) (A) A domestic ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(B) A domestic ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20% of the ceding insurer's gross written premium in the prior calendar year, or after the domestic ceding insurer has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(b) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (a) shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract



*with the assuming insurer as security for the payment of obligations under the contract, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subsection (c)(2). The security may be in the form of any of the following:*

(1) *Cash;*

(2) *a security listed by the securities valuation office of the national association of insurance commissioners, including those securities deemed exempt from filing as defined by the purposes and procedures manual of the national association of insurance commissioners investment analysis office, and qualifying as admitted assets;*

(3) (A) *clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in subsection (c)(1), effective no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of the ceding insurer's annual statement; or*

(B) *a letter of credit meeting applicable standards of issuer acceptability as of the date of the letter of credit's issuance, or confirmation, shall, notwithstanding the issuing or confirming, institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or*

(4) *any other form of security acceptable to the commissioner.*

(c) (1) *For purposes of subsection (b)(3), a "qualified United States financial institution" means an institution that meets all of the following requirements:*

(A) *Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;*

(B) *is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and*

(C) *has been determined by either the commissioner or the securities valuation office of the national association of insurance commissioners to meet the standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.*

(2) *For purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, a "qualified United States financial institution" means an institution that meets all of the following requirements:*

(i) *Is organized, or in the case of a United States branch or agency office of a foreign banking organization, is licensed under the laws of the*

*United States or any state of the United States and has been granted authority to operate with fiduciary powers; and*

*(ii) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.*

*(d) The commissioner is hereby authorized to adopt any rules and regulations necessary to implement the provisions of this law. Such rules and regulations shall be adopted no later than January 1, 2019.*

*(e) This section shall apply to all cessions under reinsurance contracts that occur on or after January 1, 2018.*

Sec. 5. K.S.A. 2016 Supp. 40-201a is hereby repealed.

Sec. 6. On and after January 1, 2018, K.S.A. 2016 Supp. 40-221a is hereby repealed.

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

Approved May 15, 2017.

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## CHAPTER 73

### HOUSE BILL No. 2301

AN ACT concerning open government; relating to public records; trial jurors; legislative review of exceptions to disclosure of public records; Kansas open meetings act; closed or executive meetings; amending K.S.A. 22-3408 and K.S.A. 2016 Supp. 45-229, 75-7d08 and 75-4319 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 45-229c.

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

Section 1. K.S.A. 22-3408 is hereby amended to read as follows: 22-3408. (1) When drawn, a list of prospective jurors ~~and their addresses~~ shall be filed in the office of the clerk of the court and shall be a public record.

(2) (a) The qualifications of jurors and grounds for exemption from jury service in civil cases shall be applicable in criminal trials, except as otherwise provided by law.

(b) An exemption from service on a jury is not a basis for challenge, but is the privilege of the person exempted.

(3) The prosecuting attorney and the defendant ~~or his the defendant's~~ attorney shall conduct the examination of prospective jurors. The court may conduct an additional examination. The court may limit the examination by the defendant, ~~his the defendant's~~ attorney or the prosecuting attorney if the court believes such examination to be harassment, is causing unnecessary delay or serves no useful purpose.

Sec. 2. K.S.A. 2016 Supp. 45-229 is hereby amended to read as fol-

laws: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

- (1) The public record is of a sensitive or personal nature concerning individuals;
- (2) the public record is necessary for the effective and efficient administration of a governmental program; or
- (3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception ~~which~~ *that* will expire in the following year which meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor subsequently determines should have been certified, the revisor shall include the exception in the following year's certification after that determination.

(f) "Exception" means any provision of law ~~which~~ *that* creates an

exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law ~~which~~ *that* creates or amends an exception to disclosure under the open records law shall not be subject to review and expiration under this act if such provision:

- (1) Is required by federal law;
- (2) applies solely to the legislature or to the state court system;
- (3) has been reviewed and continued in existence twice by the legislature; or
- (4) has been reviewed and continued in existence by the legislature during the 2013 legislative session and thereafter.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

- (A) What specific records are affected by the exception;
- (B) whom does the exception uniquely affect, as opposed to the general public;
- (C) what is the identifiable public purpose or goal of the exception;
- (D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) an exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by

the exception of the type specified in paragraph (2)(B) or (2)(C) of this subsection (h) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and ~~which~~ *that* have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, 45-221(a)(1) through (43), 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and ~~which~~ *that* have been reviewed during the 2015 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 17-2036, 40-5301, 45-221(a)(45), (46) and (49), 48-16a10, 58-4616, 60-3351, 72-972a, 74-50,217, ~~74-99d05~~ and 75-53,105.

(j) (1) Exceptions contained in the following statutes as continued in existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas and ~~which~~ *that* have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(2) Exceptions contained in the following statutes as certified by the

revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2015 and ~~which that~~ have been reviewed during the 2016 legislative session are hereby continued in existence ~~until July 1, 2021, at which time such exceptions shall expire~~: 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333, 65-4a05, 65-445(g), 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.

(k) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and ~~which that~~ have been reviewed during the 2014 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, 45-221(a)(44), (45), (46), (47) and (48), 50-6a11, 56-1a610, 56a-1204, 65-1,243, 65-16,104, 65-3239, 74-50,184, 74-8134, 74-99b06, 77-503a and 82a-2210.

(l) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during ~~2011~~ 2016 ~~and that have been reviewed during the 2017 legislative session~~ are hereby continued in existence ~~until July 1, 2017, at which time such exceptions shall expire~~: ~~12-5711, 21-2511, 38-2313, 65-516, 74-8745, 74-8752, 74-8772 and 75-7427~~: 12-5711, 21-2511, 22-4909, 38-2313, 45-221(a)(51) and (52), 65-516, 65-1505, 74-2012, 74-5607, 74-8745, 74-8752, 74-8772, 75-7d01, 75-7d05, 75-5133, 75-7427 and 79-3234.

(m) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2012 and ~~which that~~ have been reviewed during the 2013 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a, 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-712 and 75-5366.

Sec. 3. K.S.A. 2016 Supp. 75-7d08 is hereby amended to read as follows: 75-7d08. (a) Each certified batterer intervention program and each holder of a temporary permit issued pursuant to the batterer intervention program certification act shall keep and maintain for a period of two years; each book, document, paper, record or other information pertaining to services rendered as a certified batterer intervention program.

(b) Regardless of the form or media in which such books, documents, paper, record or other source of information is kept, each book, document, paper, record and other source of information concerning the compliance with the requirements established in the batterer intervention

program certification act and the rules and regulations adopted thereunder by each certified batterer intervention program or holder of a temporary permit shall be inspected at least once every certification period by the attorney general. The attorney general may order other or additional inspections as deemed necessary by the attorney general. The attorney general shall at all times be given free access to all such books, documents, papers, records or other sources of information concerning the compliance with the requirements established in the batterer intervention program certification act and the rules and regulations adopted thereunder.

(c)(1) Any information or copy thereof obtained by the attorney general pursuant to this section or pursuant to an investigation pursuant to the batterer intervention program certification act shall not be public and shall not be subject to disclosure pursuant to the Kansas open records act, and amendments thereto.

~~(2) The provisions of subsection (c)(1) shall expire on July 1, 2017, unless the legislature acts to reenact such provision. The provisions of subsection (c)(1) shall be reviewed by the legislature prior to July 1, 2017.~~

Sec. 4. K.S.A. 2016 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all public bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of: ~~(1) The justification for closing the meeting;~~ ~~(2): (1) A statement describing the subjects to be discussed during the closed or executive meeting;~~ ~~(2) the justification listed in subsection (b) for closing the meeting;~~ and (3) the time and place at which the open meeting shall resume. ~~Such The complete motion, including the required statement,~~ shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the public body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

~~(b) No subjects shall be discussed at any closed or executive meeting, except Justifications for recess to a closed or executive meeting may only include the following, the need:~~

- (1) ~~To discuss~~ personnel matters of nonelected personnel;
- (2) ~~for~~ consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship;
- (3) ~~matters relating to~~ discuss employer-employee negotiations whether or not in consultation with the representative or representatives of the public body or agency;
- (4) ~~confidential to~~ discuss data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

(5) *to discuss* matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;

~~(6) preliminary discussions relating to~~ *for the preliminary discussion* of the acquisition of real property;

(7) *to discuss* matters relating to *parimutuel racing* permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804, and amendments thereto;

(8) *to discuss* matters relating to *the care of children* permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2016 Supp. 38-2212(d)(1), ~~and amendments thereto~~, or K.S.A. 38-2213(e), and amendments thereto;

(9) *to discuss* matters relating to *the investigation of child deaths* permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 22a-243(j), and amendments thereto;

~~(10) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 44-506(e), and amendments thereto;~~

~~(11)~~ *to discuss* matters relating to *patients and providers* permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 39-7,119(g), and amendments thereto;

~~(12)~~ (11) *to discuss* matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;

~~(13)~~ (12) *to discuss* matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the public body or agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;

~~(14)~~ (13) *to discuss* matters relating to *maternity centers and child care facilities* permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 65-525(f) (d), and amendments thereto;

~~(15)~~ (14) *to discuss* matters relating to *the office of inspector general* permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2016 Supp. 75-7427, and amendments thereto; and



~~(16) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2016 Supp. 46-3801, and amendments thereto~~

(15) *for the governor’s domestic violence fatality review board to conduct case reviews.*

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

(d)~~(4)~~ Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)~~(13)~~ (12), shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

~~(2) (A) Except as otherwise provided by law, any confidential documents, records or reports relating to the prisoner review board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.~~

~~(B) Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.~~

Sec. 5. K.S.A. 22-3408 and K.S.A. 2016 Supp. 45-229, 45-229c, 75-7d08 and 75-4319 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 15, 2017.

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CHAPTER 74

SENATE BILL No. 89  
(Amended by Chapter 100)

AN ACT concerning motor vehicles; relating to fees, collection of; repealing the repossessed certificates of title fee fund; use of safety belts, violations, distribution of revenues; establishing the seat belt safety fund; amending K.S.A. 2016 Supp. 8-135, 8-145, 8-145d, 8-2504, 12-4120 and 74-7336 and repealing the existing sections; also repealing K.S.A. 8-145e.

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

Section 1. K.S.A. 2016 Supp. 8-135 is hereby amended to read as follows: 8-135. (a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and amendments thereto, it shall be unlawful for

any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of \$1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of \$1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of ~~subsection (a)~~ of K.S.A. 8-198(a), and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 59-3511, and amendments thereto, the new owner thereof, within 60 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the sixty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the sixty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of \$2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 60 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 2016 Supp. 8-135d, and

amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 2016 Supp. 8-135d, and amendments thereto.

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert and certify the mileage and the purchase price on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer and purchase price certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used

by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of \$3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be \$10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) Except for a vehicle registered by a federally recognized Indian tribe, as provided in paragraph (16), upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice

of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. On and after July 1, 2007, only one lien shall be taken or accepted for vehicles with a gross vehicle weight rating of 26,000 pounds or less. As used in this section “gross vehicle weight rating” shall have the meaning ascribed thereto in K.S.A. 66-1,108, and amendments thereto. The dealer or secured party, within 30 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle, as referenced in K.S.A. 2016 Supp. 84-9-311, and amendments thereto, on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the lienholder. For any vehicle subject to a lien, the county treasurer, *division or contractor* shall collect from the applicant a \$1.50 service fee for processing and mailing a copy of the title application to the lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 60 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 60 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time

of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of \$10. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security interest that such person seeks to perfect on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of \$10 to the division. Delivery of the surrendered title, application and tender of the required fee shall perfect a security interest in the vehicle as referenced in K.S.A. 2016 Supp. 84-9-311, and amendments thereto. On and after July 1, 2007, only one lien may be taken or accepted for security for an obligation to be secured by a lien to be shown on a certificate of title for vehicles with a gross vehicle weight rating, as defined in K.S.A. 66-1,108, and amendments thereto, of 26,000 pounds or less. A refinancing shall not be subject to the limitations of this act. A refinancing is deemed to occur when the original obligation is satisfied and replaced by a new obligation. Lien obligations created before July 1, 2007, which are of a continuing nature shall not be subject to the limitations of this act until the obligation is satisfied. A lien in violation of this provision is void. Upon receipt of the surrendered title, application and fee, the division shall issue a new certificate of title showing the liens or encumbrances so created, but only one lien or encumbrance may be shown upon a title for vehicles with a gross vehicle rating of 26,000 pounds or less, and not more than two liens or encumbrances may be shown upon a title for vehicles in excess of 26,000 pounds gross vehicle weight rating. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder shall comply with the provisions of K.S.A. 2016 Supp. 8-1,157, and amendments thereto.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 60 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 60 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if: (A) The seller mails to

the purchaser by restricted mail the assigned certificate of title within 60 days; ~~or~~; (B) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division; ~~;~~ or (C) if the transferor is a dealer and has assigned a title pursuant to ~~paragraph (9) of this subsection (c)(9).~~

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 60 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to ~~paragraph (7) of~~ subsection (c)(7) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of \$10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with ~~subsection (a) of K.S.A. 8-116a(a)~~, and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under ~~paragraph (2) of subsection (c)(2)~~, a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under ~~paragraph (2) of subsection (c)(2)~~ have already been used. The fee for a reassignment form shall be \$6.50. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.

(15) A first stage manufacturer, as defined in K.S.A. 8-2401, and amendments thereto, who manufactures a motor vehicle in this state, and who sells such motor vehicles to dealers located in a foreign country, may execute a manufacturer's statement of origin to the division of vehicles for the purpose of obtaining an export certificate of title. The motor vehicle issued an export certificate of title shall not be required to be registered in this state. An export certificate of title shall not be used to register such vehicle in the United States.

(16) A security interest in a vehicle registered by a federally recognized Indian tribe shall be deemed valid under Kansas law if validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.

(17) On and after January 1, 2010, a certificate of title issued for a rebuilt salvage vehicle for the initial time, shall indicate on such title, the reduced classification of such vehicle as provided under K.S.A. 79-5104, and amendments thereto.

Sec. 2. K.S.A. 2016 Supp. 8-145 is hereby amended to read as follows: 8-145. (a) All registration and certificates of title fees shall be paid to *the division of vehicles, a contractor of the division or the county treasurer of the county in which the applicant for registration resides or has an office or principal place of business within this state*, ~~and. The division, contractor or the county treasurer shall issue a receipt in triplicate, on~~



~~blanks furnished by the division of vehicles, one copy of which shall be filed in the county treasurer's office, one copy shall be delivered to the applicant and the original copy shall be forwarded to the director of vehicles for such fees paid.~~

(b) The county treasurer, *division or contractor* shall deposit \$.75 out of each license application, \$.75 out of each application for transfer of license plate and \$2 out of each application for a certificate of title, collected ~~by such treasurer~~ under this act, in a special fund, which fund is hereby appropriated for the use of the county treasurer, *division or contractor* in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law ~~and extra compensation to~~. The county treasurer *shall receive extra compensation* for the services performed in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law, except that the county treasurer shall receive as additional compensation for administering the motor vehicle title and registration laws and fees, a sum computed as follows: The county treasurer, during the month of December, shall determine the amount to be retained for extra compensation not to exceed the following amounts each year for calendar year 2006 or any calendar year thereafter: The sum of \$110 per hundred registrations for the first 5,000 registrations; the sum of \$90 per hundred registrations for the second 5,000 registrations; the sum of \$5 per hundred for the third 5,000 registrations; and the sum of \$2 per hundred registrations for all registrations thereafter. In no event, however, shall any county treasurer be entitled to receive more than \$15,000 additional annual compensation.

If more than one person shall hold the office of county treasurer during any one calendar year, such compensation shall be prorated among such persons in proportion to the number of weeks served. The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special fund. Any balance remaining in such fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year.

(c) The county treasurer, *division or contractor* shall remit the remainder of all such fees collected, together with the original copy of all applications, to the secretary of revenue. The secretary of revenue shall remit all such fees remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund, except as provided in subsection (d).

(d) (1) Three dollars and fifty cents of each certificate of title fee

collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the VIPs/CAMA technology hardware fund.

(2) For repossessed vehicles, \$3 of each certificate of title fee collected ~~and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the repossessed certificates of title fee fund~~ shall be retained by the contractor or county treasurer who processed the application.

(3) Three dollars and fifty cents of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$3 to the VIPs/CAMA technology hardware fund.

(4) Until January 1, 2013, \$4 of each division of vehicles modernization surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$4 to the division of vehicles modernization fund, on and after January 1, 2013, the state treasurer shall credit such \$4 to the state highway fund.

(5) Two dollars of each Kansas highway patrol staffing and training surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$2 to the Kansas highway patrol staffing and training fund.

(6) One dollar and twenty-five cents of each law enforcement training center surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such \$1.25 to the law enforcement training center fund.

(7) *Fees collected in K.S.A. 2016 Supp. 8-135 and 8-145, and amendments thereto, that are collected by the division for commercial motor vehicles or vehicles that are part of a commercial fleet, shall be remitted to the state treasurer, who shall credit such amounts to the commercial vehicle administrative fund.*

Sec. 3. K.S.A. 2016 Supp. 8-145d is hereby amended to read as follows: 8-145d. In addition to the annual vehicle registration fees prescribed by K.S.A. 8-143, 8-143b, 8-143c, 8-143g, 8-143h, 8-143i, 8-167, 8-172 ~~and~~, 8-195, 8-1,103 ~~and~~ 8-1,108, and amendments thereto, and K.S.A. 2016 Supp. 8-143l, and amendments thereto, any applicant for vehicle registration or renewal thereof for registration shall pay a service fee in the amount of \$5 to the county treasurer, *the division of vehicles or a contractor of the division* at the time of making such application. In ad-

dition to such service fee, the county treasurer may charge any applicant for vehicle registration or renewal thereof for registration, a registration fee as follows: (1) In an amount not to exceed \$5 per vehicle registration or renewal thereof for registration, when such application is made at a registration facility in a county with multiple vehicle registration facilities as established by the county treasurer; and (2) in an amount not to exceed \$2.50 per vehicle registration or renewal thereof for registration, when such application is made at a registration facility in a county with a single vehicle registration facility as established by the county treasurer. The county treasurer, *division or contractor* shall deposit all amounts received under this section in the special fund created pursuant to K.S.A. 8-145, and amendments thereto, and such amounts shall be used by the county treasurer, *division or contractor* for all purposes for which such fund has been appropriated by law, and such additional amounts are hereby appropriated as other amounts deposited in such fund.

New Sec. 4. There is hereby established in the state treasury the seat belt safety fund which shall be administered by the secretary of transportation. All expenditures of moneys in the seat belt safety fund shall be used for the purpose of promotion and education of occupant protection among children, including, but not limited to, programs in schools in Kansas 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 of transportation or by a person or persons designated by the secretary of transportation. The secretary of transportation may accept all gifts, grants, donations and bequests to the fund. The secretary of transportation 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 seat belt safety fund.

New Sec. 5. On July 1, 2017, the director of accounts and reports shall transfer all moneys in the repossessed certificates of title fee fund to the division of vehicles operating fund. On July 1, 2017, all liabilities of the repossessed certificates of title fee fund are hereby transferred to and imposed on the division of vehicles operating fund, and the repossessed certificates of title fee fund is hereby abolished.

Sec. 6. K.S.A. 2016 Supp. 8-2504 is hereby amended to read as follows: 8-2504. (a) (1) Persons violating ~~subsection (a)(1) of K.S.A. 8-2503(a)(1), and amendments thereto, shall be fined \$5 and no court costs and, from and after July 1, 2011, persons violating subsection (a)(1) of K.S.A. 8-2503, and amendments thereto, shall be fined \$10~~ \$30 and no court costs; and

(2) persons violating ~~subsection (a)(2) of K.S.A. 8-2503(a)(2), and amendments thereto, shall be fined \$60 and no court costs.~~

(b) No court shall report violation of this act to the department of revenue.

(c) Evidence of failure of any person to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

(d) The provisions of this section shall be applicable and uniform throughout the state and no city, county, subdivision or local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of this section.

Sec. 7. K.S.A. 2016 Supp. 12-4120 is hereby amended to read as follows: 12-4120. (a) On and after July 1, 2012, the amount of \$250 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2016 Supp. 8-1025, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 2016 Supp. 75-52,113, and amendments thereto.

(b) On and after July 1, 2013, the amount of \$2,500 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 2016 Supp. 21-6421, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the human trafficking victim assistance fund established by K.S.A. 2016 Supp. 75-758, and amendments thereto.

*(c) On and after July 1, 2017, the amount of \$20 from each fine imposed for a violation of a city ordinance requiring the use of safety belts for those individuals required by K.S.A. 8-2503(a)(1), and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the seat belt safety fund established by section 4, and amendments thereto.*

Sec. 8. K.S.A. 2016 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit:

- (1) ~~10.94%~~ 10.7% to the crime victims compensation fund;
- (2) ~~2.24%~~ 2.19% to the crime victims assistance fund;
- (3) ~~2.75%~~ 2.69% to the community alcoholism and intoxication programs fund;

- (4) ~~7.65%~~ 7.48% to the department of corrections alcohol and drug abuse treatment fund;
  - (5) 0.16% to the boating fee fund;
  - (6) 0.11% to the children’s advocacy center fund;
  - (7) ~~2.28%~~ 2.23% to the EMS revolving fund;
  - (8) ~~2.28%~~ 2.23% to the trauma fund;
  - (9) ~~2.28%~~ 2.23% to the traffic records enhancement fund;
  - (10) ~~4.4%~~ 4.31% to the criminal justice information system line fund;
- ~~and~~
- (11) 2.2% to the seat belt safety fund; and
  - (12) the remainder of the remittances to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.

Sec. 9. K.S.A. 8-145e and K.S.A. 2016 Supp. 8-135, 8-145, 8-145d, 8-2504, 12-4120 and 74-7336 are hereby repealed.

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

Approved May 22, 2017.

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CHAPTER 75

House Substitute for SENATE BILL No. 120

AN ACT concerning the code of civil procedure; amending K.S.A. 2016 Supp. 60-102, 60-206, 60-216, 60-226, 60-230, 60-231, 60-234, 60-237 and 60-255 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 60-268.

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

Section 1. K.S.A. 2016 Supp. 60-102 is hereby amended to read as follows: 60-102. The provisions of this act shall be liberally construed ~~and~~, administered *and employed by the court and the parties* to secure the just, speedy and inexpensive determination of every action and proceeding.

Sec. 2. K.S.A. 2016 Supp. 60-206 is hereby amended to read as follows: 60-206. (a) *Computing time.* The following provisions apply in computing any time period specified in this chapter, in any local rule or court order or in any statute or administrative rule or regulation that does not specify a method of computing time.

(1) *Period stated in days or a longer unit.* When the period is stated in days or a longer unit of time:

- (A) Exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

(2) *Period stated in hours.* When the period is stated in hours:

(A) Begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays and legal holidays; and

(C) if the period would end on a Saturday, Sunday or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday or legal holiday.

(3) *Inaccessibility of the clerk's office.* Unless the court orders otherwise, if the clerk's office is inaccessible:

(A) On the last day for filing under subsection (a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday or legal holiday; or

(B) during the last hour for filing under subsection (a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday or legal holiday.

(4) *"Last day" defined.* Unless a different time is set by a statute, local rule or court order, the last day ends:

(A) For electronic or telefacsimile filing, at midnight in the court's time zone; and

(B) for filing by other means, when the clerk's office is scheduled to close.

(5) *"Next day" defined.* The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(6) *"Legal holiday" defined.* "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 Kansas supreme court. A half holiday is considered as other days and not as a holiday.

(b) *Extending time.* (1) *In general.* When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) With or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

(2) *Exceptions.* A court must not extend the time to act under ~~subsection (b) of K.S.A. 60-250(b), subsection (b) of K.S.A. 60-252(b), subsections (b), (c) and (f) of K.S.A. 60-259(b), (e) and (f) and subsection (b) of K.S.A. 60-260(b), and amendments thereto.~~

(c) *Motions, notices of hearing and affidavits or declarations.* (1) *In general.* A written motion and notice of the hearing must be served at least seven days before that time specified for the hearing with the following exceptions:

- (A) When the motion may be heard ex parte;
- (B) when these rules set a different time; or
- (C) when a court order, which a party may, for good cause, apply for ex parte, sets a different time.

(2) *Supporting affidavit or declaration.* Any affidavit or declaration pursuant to K.S.A. 53-601, and amendments thereto, supporting a motion must be served with the motion. Except as otherwise provided in ~~subsection (d) of K.S.A. 60-259(d)~~, and amendments thereto, any opposing affidavit or declaration must be served at least one day before the hearing, unless the court permits service at another time.

(d) *Additional time after certain kinds of service.* When a party may or must act within a specified time after ~~service being served~~ and service is made under ~~subsections (b)(2)(C), (D), (E) or (F) of K.S.A. 60-205(b)(2)(C)~~ (mail), or (D) (leaving with the clerk), and amendments thereto, three days are added after the period would otherwise expire under subsection (a).

Sec. 3. K.S.A. 2016 Supp. 60-216 is hereby amended to read as follows: 60-216. (a) *Purposes of a pretrial conference.* In any action, the court must on the request of any party, or may without a request, order the attorneys for the parties and any unrepresented parties to appear for one or more conferences to expedite processing and disposition of the litigation, minimize expense and conserve time.

(b) *Case management conference.* In any action, the court must on the request of any party, or may without a request, conduct a case management conference with attorneys and any unrepresented parties. The court must schedule the conference as soon as possible. The conference must be conducted within 45 days after the filing of an answer, unless the court extends the time to meet the needs of the case.

(1) At a case management conference the court must consider and take appropriate action on the following matters:

- (A) Identifying the issues and exploring the possibilities of stipulations and settlement;
- (B) determining whether the action is suitable for alternative dispute resolution;
- (C) exchanging information on the issues, including key documents and witness identification;
- (D) establishing a plan and schedule for discovery, including setting limits on discovery, if any, designating the time and place of discovery, restricting discovery to certain designated witnesses or requiring state-

ments be taken in writing or by use of electronic recording rather than by stenographic transcription;

(E) determining issues relating to disclosure ~~or~~, discovery *or preservation* of electronically stored information, including the form or forms in which it should be produced;

(F) determining issues relating to claims of privilege or of protection as trial-preparation material, including, ~~if the parties agree on a procedure to assert such claims after production, whether to ask the court to include their agreement in an order~~ *any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced, including agreements reached under K.S.A. 60-426a, and amendments thereto*;

(G) requiring completion of discovery within a definite number of days after the conference has been conducted;

(H) setting deadlines for filing motions, joining parties and amendments to the pleadings;

(I) setting the date or dates for conferences before trial, a final pre-trial conference, and trial; and

(J) such other matters as are necessary for the proper management of the action.

(2) If a case management conference is held, no depositions, other than of the parties may be taken until after the conference is held, except by agreement of the parties, by order of the court or as provided in ~~subsection (a)(2)(B) of K.S.A. 60-230(a)(2)(B)~~, and amendments thereto. If the case management conference is not held within 45 days after the filing of an answer, the restrictions of this paragraph no longer apply.

(3) If discovery cannot be completed within the time originally prescribed by the court, the party not able to complete discovery may file a motion for additional time to complete discovery. The motion must be filed prior to the expiration of the original period, contain a discovery plan and state the reason why discovery cannot be completed within the original period. If additional time is allowed, the court must grant only that amount of time reasonably necessary to complete discovery.

(c) *Attendance and matters for consideration at a pretrial conference.*

(1) *Attendance.* A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can be reasonably anticipated for discussion at a pretrial conference. If appropriate, the court may require that a party or its representative be present or reasonably available by other means in order to consider possible settlement of the dispute. The court may allow a pretrial conference to be held by a telephone conference call or other means.

(2) *Matters for consideration.* At any pretrial conference, the court may consider and take appropriate action on the following matters:

(A) Simplifying the issues;



(B) determining the issues of law that may eliminate or affect the trial of issues of fact;

(C) amending the pleadings if necessary or desirable;

(D) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof;

(E) limiting the number of expert witnesses;

(F) referring issues to a master; and

(G) such other matters as may aid in the disposition of the action, including alternative dispute resolution.

(d) *Pretrial orders.* After any conference held under this section, the court should issue an order reciting the action taken. This order controls the subsequent course of the action unless the court modifies it.

(e) *Final pretrial conference and orders.* In any action, the court must on the request of any party, or may without a request, conduct a final pretrial conference in accordance with procedures established by rule of the supreme court. The court may modify the order issued after a final pretrial conference only to prevent manifest injustice.

(f) *Sanctions.* (1) *In general.* On motion or on its own, and after opportunity to be heard, the court may issue any just orders, including those authorized by ~~subsections (b)(2)(A)(ii) through (vii) of K.S.A. 60-237(b)(2)(A)(ii) through (vii)~~, and amendments thereto, if a party or its attorney:

(A) Fails to appear at a case management or other pretrial conference;

(B) is substantially unprepared to participate, or does not participate in good faith, in the conference; or

(C) fails to obey a scheduling or other pretrial order.

(2) *Imposing fees and costs.* Instead of, or in addition to any other sanction, the court must order the party, its attorney, or both to pay the reasonable expenses, including attorney's fees, incurred because of any noncompliance with this section, unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust.

Sec. 4. K.S.A. 2016 Supp. 60-226 is hereby amended to read as follows: 60-226. (a) *Discovery methods.* Parties may obtain discovery by one or more of the following methods: Depositions on oral examination or written questions; written interrogatories; production of documents or things or permission to enter onto land or other property under K.S.A. 60-234, ~~subsection (a)(1)(A)(iii) of K.S.A. 60-245(a)(1)(A)(iii) or K.S.A. 60-245a~~, and amendments thereto; physical and mental examinations; and requests for admission.

(b) *Discovery scope and limits.* (1) *Scope in general.* Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to the subject matter involved in the action, whether it relates to any party's

claim or defense, including the existence, description, nature, custody, condition and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

(2) *Limitations on frequency and extent.* (A) On motion, or on its own, the court may limit the frequency or extent of discovery methods otherwise allowed by the rules of civil procedure and must do so if it determines that:

(i) The discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) ~~the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action and the importance of the proposed discovery in resolving the issues~~ is outside the scope permitted by subsection (b)(1).

(B) A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of subsection (b)(2)(A). The court may specify conditions for the discovery.

(3) *Insurance agreements.* A party may obtain discovery of the existence and contents of any insurance agreement under which an insurance business may be liable to satisfy part or all of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this paragraph, an application for insurance is not a part of an insurance agreement.

(4) *Trial preparation; materials.* (A) *Documents and tangible things.* Ordinarily, a party may not discover documents and tangible things that

are prepared in anticipation of litigation or for trial by or for another party or its representative, including the other party's attorney, consultant, surety, indemnitor, insurer or agent. But, subject to subsection (b)(5), those materials may be discovered if:

- (i) They are otherwise discoverable under paragraph (1); and
- (ii) the party shows that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.

(B) *Protection against disclosure.* If the court orders discovery of those materials, it must protect against disclosure of the mental impressions, conclusions, opinions or legal theories of a party's attorney or other representative concerning the litigation.

(C) *Previous statement.* Any party or other person may, on request and without the required showing, obtain the person's own previous statement about the action or its subject matter. If the request is refused, the person may move for a court order, and K.S.A. 60-237, and amendments thereto, applies to the award of expenses. A previous statement is either:

- (i) A written statement that the person has signed or otherwise adopted or approved; or
- (ii) a contemporaneous stenographic, mechanical, electrical or other recording, or a transcription of it, that recites substantially verbatim the person's oral statement.

(5) *Trial preparation; experts.*

(A) *Deposition of an expert who may testify.* A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If a disclosure is required under subsection (b)(6), the deposition may be conducted only after the disclosure is provided.

(B) *Trial-preparation protection for draft disclosures.* Subsections (b)(4)(A) and (b)(4)(B) protect drafts of any disclosure required under subsection (b)(6), and drafts of a disclosure by an expert witness provided in lieu of the disclosure required by subsection (b)(6), regardless of the form in which the draft is recorded.

(C) *Trial-preparation protection for communications between a party's attorney and expert witnesses.* Subsections (b)(4)(A) and (b)(4)(B) protect communications between the party's attorney and any witness about whom disclosure is required under subsection (b)(6), regardless of the form of the communications, except to the extent that the communications:

- (i) Relate to compensation for the expert's study or testimony;
- (ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or
- (iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(D) *Expert employed only for trial preparation.* Ordinarily, a party may not, by interrogatories or deposition, discover facts known or opin-

ions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. But a party may do so only:

(i) As provided in ~~subsection (b) of K.S.A. 60-235(b)~~, and amendments thereto; or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(E) *Payment.* Unless manifest injustice would result, the court must require that the party seeking discovery:

(i) Pay the expert a reasonable fee for time spent in responding to discovery under subsection (b)(5)(A) or (b)(5)(D); and

(ii) for discovery under subsection (b)(5)(D), also pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions.

(6) *Disclosure of expert testimony.* (A) *Required disclosures.* A party must disclose to other parties the identity of any witness it may use at trial to present expert testimony. The disclosure must state:

(i) The subject matter on which the expert is expected to testify; and

(ii) the substance of the facts and opinions to which the expert is expected to testify.

(B) *Witness who is retained or specially employed.* Unless otherwise stipulated or ordered by the court, if the witness is retained or specially employed to provide expert testimony in the case, or is one whose duties as the party's employee regularly involve giving expert testimony, the disclosure under subsection (b)(6)(A) must also state a summary of the grounds for each opinion.

(C) *Time to disclose expert testimony.* A party must make these disclosures at the times and in the sequence that the court orders. Absent a stipulation or court order, the disclosures must be made:

(i) At least 90 days before the date set for trial or for the case to be ready for trial; or

(ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under subsection (b)(6)(B), within 30 days after the other party's disclosure.

(D) *Supplementing the disclosure.* The parties must supplement these disclosures when required under subsection (e).

(E) *Form of disclosures.* Unless otherwise ordered by the court, all disclosures under this subsection must be:

(i) In writing, signed and served; and

(ii) filed with the court in accordance with ~~subsection (d) of K.S.A. 60-205(d)~~, and amendments thereto.

(7) *Claiming privilege or protecting trial preparation materials.* (A) *Information withheld.* When a party withholds information otherwise dis-

coverable by claiming that the information is privileged or subject to protection as trial preparation material, the party must:

- (i) Expressly make the claim; and
- (ii) describe the nature of the documents, communications or things not produced or disclosed, and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

(B) *Information produced.* If information produced in discovery is subject to a claim of privilege or of protection as trial preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(c) *Protective orders.* (1) *In general.* A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending, as an alternative on matters relating to a deposition, in the district court where the deposition will be taken. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action and must describe the steps taken by all attorneys or unrepresented parties to resolve the issues in dispute. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including one or more of the following:

- (A) Forbidding the disclosure or discovery;
- (B) specifying terms, including time and place *or the allocation of expenses*, for the disclosure or discovery;
- (C) prescribing a discovery method other than the one selected by the party seeking discovery;
- (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;
- (E) designating the persons who may be present while the discovery is conducted;
- (F) requiring that a deposition be sealed and opened only on court order;
- (G) requiring that a trade secret or other confidential research, development or commercial information not be revealed or be revealed only in a specified way; and
- (H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the court orders.

(2) *Ordering discovery.* If a motion for a protective order is wholly

or partly denied the court may, on just terms, order that any party or person provide or permit discovery.

(3) *Awarding expenses.* The provisions of K.S.A. 60-237, and amendments thereto, apply to the award of expenses.

(d) *Sequence of discovery.* Unless, ~~on motion,~~ *the parties stipulate or the court orders otherwise for the parties' and witnesses' convenience and in the interests of justice:*

(1) Methods of discovery may be used in any sequence; and

(2) discovery by one party does not require any other party to delay its discovery.

(e) *Supplementing disclosures and responses.* (1) *In general.* A party who has made a disclosure under subsection (b)(6), or who has responded to an interrogatory, request for production or request for admission, must supplement or correct its disclosure or response:

(A) In a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(B) as ordered by the court.

(2) *Expert witness.* For an expert to whom the disclosure requirement in subsection (b)(6) applies, the party's duty to supplement extends both to information included in the disclosure and to information given during the expert's deposition. Any additions or changes to this information must be disclosed at least 30 days before trial, unless the court orders otherwise.

(f) *Signing disclosures and discovery requests, responses and objections.* (1) *Signature required; effect of signature.* Every disclosure under subsection (b)(6) and every discovery request, response or objection must be signed by at least one attorney of record in the attorney's own name, or by the party personally, if unrepresented, and must state the signor's address, e-mail address and telephone number. By signing, an attorney or party certifies that to the best of the person's knowledge, information and belief formed after a reasonable inquiry:

(A) With respect to a disclosure, it is complete and correct as of the time it is made;

(B) with respect to a discovery request, response or objection, it is:

(i) Consistent with the rules of civil procedure and warranted by existing law or by a nonfrivolous argument for extending, modifying or reversing existing law or for establishing new law;

(ii) not interposed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation; and

(iii) neither unreasonable nor unduly burdensome or expensive considering the needs of the case, prior discovery in the case, the amount in controversy and the importance of the issues at stake in the action.

(2) *Failure to sign.* Other parties have no duty to act on an unsigned

disclosure, request, response or objection until it is signed, and the court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

(3) *Sanction for improper certification.* If a certification violates this section without substantial justification, the court, on motion, or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney's fees, caused by the violation.

Sec. 5. K.S.A. 2016 Supp. 60-230 is hereby amended to read as follows: 60-230. (a) *When a deposition may be taken.* (1) *Without leave.* A party may, by oral questions, depose any person including a party, without leave of court except as provided in subsection (a)(2). The deponent's attendance may be compelled by subpoena under K.S.A. 60-245, and amendments thereto.

(2) *With leave.* A party must obtain leave of court, and the court must grant leave to the extent consistent with ~~subsection (b)(2) of~~ K.S.A. 60-226(b)(1) and (2), and amendments thereto:

(A) If the parties have not stipulated to the deposition and:

(i) The deponent has already been deposed in the case; or

(ii) the party seeks to take the deposition of a nonparty before the time specified in ~~subsection (b) of~~ K.S.A. 60-216(b), and amendments thereto, unless the party certifies in the notice, with supporting facts, that the deponent is expected to leave Kansas and be unavailable for examination in Kansas after that time; or

(B) if the deponent is confined in prison.

(b) *Notice of the deposition; other formal requirements.* (1) *Notice in general.* A party who wants to depose a person by oral questions must give reasonable written notice to every other party. The notice must state the time and place of the deposition and, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.

(2) *Producing documents.* If a subpoena duces tecum is to be served on the deponent, the materials designated for production, as set out in the subpoena, must be listed in the notice or in an attachment. The notice to a party deponent may be accompanied by a request under K.S.A. 60-234, and amendments thereto, to produce documents and tangible things at the deposition.

(3) *Method of recording.* (A) *Method stated in a stipulation or order.* The parties may stipulate or the court may order that the testimony at a deposition be recorded by other than stenographic means. A party may arrange to have a stenographic record made at the party's own expense.

(B) *Additional method.* With prior notice to the deponent and other

parties, any party may record on videotape, or a comparable medium, any deposition that is to be recorded stenographically. That party bears the expense of the additional record or transcript unless the court orders otherwise.

(4) *By remote means.* The parties may stipulate, or the court may on motion order, that a deposition be taken by telephone or other remote means. For the purposes of this section and ~~subsection (c) of K.S.A. 60-226(c), subsection (a) of K.S.A. 60-228(a), subsections (a)(1) and (b)(1) of K.S.A. 60-237(a)(1) and (b)(1) and subsection (a)(2) of K.S.A. 60-245(a)(2),~~ and amendments thereto, the deposition takes place where the deponent answers the questions.

(5) *Officer's duties.* (A) *Before the deposition.* Unless the parties stipulate otherwise a deposition must be conducted before an officer appointed or designated under K.S.A. 60-228, and amendments thereto. The officer must begin the deposition with an on-the-record statement that includes:

- (i) The officer's name and business address;
- (ii) the date, time and place of the deposition;
- (iii) the deponent's name;
- (iv) the officer's administration of the oath or affirmation to the deponent; and
- (v) the identity of all persons present.

(B) *Conducting the deposition; avoiding distortion.* If the deposition is recorded nonstenographically, the officer must repeat the items in subsection (b)(5)(A)(i) through (iii) at the beginning of each unit of the recording medium. The deponent's and attorneys' appearance or demeanor must not be distorted through recording techniques.

(C) *After the deposition.* At the end of a deposition, the officer must state on the record that the deposition is complete and must set out any stipulations made by the attorneys about custody of the transcript or recording and of the exhibits, or about any other pertinent matters.

(6) *Notice or subpoena directed to an organization.* In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which the person designated will testify. A subpoena must advise a nonparty organization of its duty to make this designation. The persons designated must testify about information known or reasonably available to the organization. This subsection does not preclude a deposition by any other procedure allowed by the rules of civil procedure.

(c) *Examination and cross-examination; record of the examination; objections; written questions.* (1) *Examination and cross-examination.* The



examination and cross-examination of a deponent proceed as they would at trial under the provisions of K.S.A. 60-243, and amendments thereto. After putting the deponent under oath or affirmation, the officer must record the testimony by the method designated under subsection (b)(3)(A). The testimony must be recorded by the officer personally or by a person acting in the presence and under the direction of the officer. If requested by one of the parties, the testimony must be transcribed. The court may order the cost of transcription paid by one or some of, or apportioned among, the parties.

(2) *Objections.* An objection at the time of the examination, whether to evidence, to a party's conduct, to the officer's qualifications, to the manner of taking the deposition or to any other aspect of the deposition, must be noted on the record, but the examination still proceeds; the testimony is taken subject to any objection. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court or to present a motion under subsection (d)(3).

(3) *Participating through written questions.* Instead of participating in the oral examination, a party may serve written questions in a sealed envelope on the party noticing the deposition, who must deliver them to the officer. The officer must ask the deponent those questions and record the answers verbatim.

(d) *Motion to terminate or limit.* (1) *Grounds.* At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses or oppresses the deponent or party. The motion may be filed in the court where the action is pending or where the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(2) *Order.* The court may order that the deposition be terminated or may limit its scope and manner as provided in ~~subsection (e) of K.S.A. 60-226(c)~~, and amendments thereto. If terminated, the deposition may be resumed only by order of the court where the action is pending.

(3) *Award of expenses.* The provisions of ~~subsection (a) of K.S.A. 60-237(a)~~, and amendments thereto, apply to the award of expenses.

(e) *Review by the witness; changes.* (1) *Review; statement of changes.* Unless waived by the deponent and by the parties, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) To review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) *Changes indicated in the officer's certificate.* The officer must

note in the certificate prescribed by subsection (f)(1) whether the deposition was reviewed and, if so, must attach any changes the deponent makes during the 30-day period.

(f) *Certification and delivery; exhibits; copies of the transcript or recording; notice of delivery or filing; retention of original.* (1) *Certification and delivery.* The officer must certify in writing that the witness was duly sworn and that the deposition accurately records the witness's testimony. The certificate must accompany the record of the deposition. Unless the court orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked "Deposition of (witness's name)" and must promptly send it to the attorney who arranged for the transcript or recording. The attorney must store it under conditions that will protect it against loss, destruction, tampering or deterioration.

(2) *Documents and tangible things.* (A) *Originals and copies.* Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition. Any party may inspect and copy them, but if the person who produced them wants to keep the originals the person may:

(i) Offer copies to be marked, attached to the deposition and then used as originals, after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or

(ii) give all parties a fair opportunity to inspect and copy the originals after they are marked, in which event the originals may be used as if attached to the deposition.

(B) *Order regarding the originals.* Any party may move for an order that the originals be attached to the deposition pending final disposition of the case.

(3) *Copies of the transcript or recording.* Unless otherwise stipulated or ordered by the court, the officer must retain the stenographic notes of a deposition taken stenographically or a copy of the recording of a deposition taken by another method. When paid reasonable charges, the officer must furnish a copy of the transcript or recording to any party or the deponent.

(4) *Notice of delivery or filing.* The court may order the officer to file the deposition promptly with the court. The officer must serve notice of the sending or filing of the deposition on all parties.

(5) *Retention of original.* Except when filed with the court, the original of a deposition must be retained by the party to whom it is sent and made available for appropriate use by any party.

(g) *Failure to attend a deposition or serve a subpoena; expenses; persons attending.* A party who, expecting a deposition to be taken, attends in person or by an attorney may recover reasonable expenses for attending, including attorney's fees, if the noticing party failed to:

(1) Attend and proceed with the deposition; or

(2) serve a subpoena on a nonparty deponent, who consequently did not attend.

(h) *Persons attending deposition.* Unless otherwise stipulated or ordered by the court, no person may attend a deposition except:

- (1) The officer before whom the deposition is being taken;
- (2) the reporter, stenographer or person recording the deposition;
- (3) the parties to the action;
- (4) the parties' attorneys and the attorneys' paralegals or legal assistants; and
- (5) the deponent.

Sec. 6. K.S.A. 2016 Supp. 60-231 is hereby amended to read as follows: 60-231. (a) *When a deposition may be taken.* (1) *Without leave.* A party may, by written questions, depose any person, including a party, without leave of court except as provided in subsection (a)(2). The deponent's attendance may be compelled by subpoena under K.S.A. 60-245, and amendments thereto.

(2) *With leave.* A party must obtain leave of court, and the court must grant leave to the extent consistent with ~~subsection (b)(2) of~~ K.S.A. 60-226(b)(1) and (2), and amendments thereto:

- (A) If the parties have not stipulated to the deposition and:
  - (i) The deponent has already been deposed in the case; or
  - (ii) the party seeks to take the deposition before the time specified in ~~subsection (b) of~~ K.S.A. 60-216(b), and amendments thereto; or
- (B) if the deponent is confined in prison.

(3) *Service; required notice.* A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) *Questions directed to an organization.* A public or private corporation, a partnership, an association, a governmental agency or other entity may be deposed by written questions in accordance with ~~subsection (b)(6) of~~ K.S.A. 60-230(b)(6), and amendments thereto.

(5) *Questions from other parties.* Any question to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within 14 days after being served with cross-questions; and recross-questions, within 14 days after being served with redirect questions. The court may, for good cause, extend or shorten these times.

(b) *Delivery to the officer; officer's duties.* The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly proceed in the manner

provided in ~~subsections (c), (e) and (f) of K.S.A. 60-230(c), (e) and (f),~~ and amendments thereto, to:

- (1) Take the deponent's testimony in response to the questions;
- (2) prepare and certify the deposition; and
- (3) send it to the party, attaching a copy of the questions and of the notice.

(c) *Notice of completion or filing.* (1) *Completion.* The party who noticed the deposition must notify all other parties when it is completed.

(2) *Filing.* A party who files the deposition must promptly notify all other parties of the filing.

Sec. 7. K.S.A. 2016 Supp. 60-234 is hereby amended to read as follows: 60-234. (a) *In general.* A party may serve on any other party a request within the scope of ~~subsection (b) of K.S.A. 60-226(b),~~ and amendments thereto:

(1) To produce and permit the requesting party, or its representative, to inspect, copy, test or sample the following items in the responding party's possession, custody or control:

(A) Any designated documents or electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test or sample the property or any designated object or operation on it.

(b) *Procedure.* The request may be served on the plaintiff after commencement of the action and on any other party with or after service of process on that party.

(1) *Contents of request.* The request:

(A) Must describe with reasonable particularity each item or category of items to be inspected;

(B) must specify a reasonable time, place and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(2) *Responses and objections.* (A) *Time to respond.* The party to whom the request is directed must respond in writing within 30 days after being served, except that a defendant may serve a response within 45 days after being served with process. A shorter or longer time may be stipulated to under K.S.A. 60-229, and amendments thereto, or be ordered by the court.

(B) *Responding to each item.* For each item or category, the response must either state that inspection and related activities will be permitted as requested or state ~~an objection~~ *with specificity the grounds for objecting* to the request, including the reasons. *The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.*

(C) *Objections.* *An objection must state whether any responsive materials are being withheld on the basis of that objection.* An objection to part of a request must specify the part and permit inspection of the rest.

(D) *Responding to a request for production of electronically stored information.* The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form, or if no form was specified in the request, the party must state the form or forms it intends to use.

(E) *Producing the documents or electronically stored information.* Unless otherwise stipulated or ordered by the court, these procedures apply to producing documents or electronically stored information:

(i) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(ii) if a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(iii) a party need not produce the same electronically stored information in more than one form.

(c) *Nonparties.* As provided in K.S.A. 60-245 and 60-245a, and amendments thereto, a nonparty may be compelled to produce documents, electronically stored information and tangible things or to permit an inspection.

Sec. 8. K.S.A. 2016 Supp. 60-237 is hereby amended to read as follows: 60-237. (a) *Motion for an order compelling disclosure or discovery.*

(1) *In general.* On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action and must describe the steps taken by all attorneys or unrepresented parties to resolve the issues in dispute.

(2) *Appropriate court.* A motion for an order to a party must be made in the court where the action is pending. A motion for an order to a nonparty must be made in the district where the discovery is or will be taken.

(3) *Specific motions.* (A) *To compel disclosure.* If a party fails to make a disclosure required by ~~subsection (b)(6) of~~ K.S.A. 60-226(b)(6), and amendments thereto, any other party may move to compel disclosure and for appropriate sanctions.

(B) *To compel a discovery response.* A party seeking discovery may move for an order compelling an answer, designation, production or inspection. This motion may be made if:

(i) A deponent fails to answer a question asked under K.S.A. 60-230 or 60-231, and amendments thereto;

(ii) a corporation or other entity fails to make a designation under ~~subsection (b)(6) of~~ K.S.A. 60-226(b)(6) or ~~subsection (a)(4) of~~ K.S.A. 60-231(a)(4), and amendments thereto;

(iii) a party fails to answer an interrogatory submitted under K.S.A. 60-233, and amendments thereto; or

(iv) a party fails to *produce documents or fails to* respond that inspection will be permitted, or fails to permit inspection, as requested under K.S.A. 60-234, and amendments thereto.

(C) *Related to a deposition.* When taking an oral deposition the party asking a question may complete or adjourn the examination before moving for an order.

(4) *Evasive or incomplete disclosure, answer or response.* For purposes of this subsection, an evasive or incomplete disclosure, answer or response must be treated as a failure to disclose, answer or respond.

(5) *Payment of expenses; protective orders.* (A) *If the motion is granted, or disclosure or discovery is provided after filing.* If the motion is granted, the court must, and if disclosure occurs before the motion is granted, the court may, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. But the court must not order this payment if:

(i) The movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action;

(ii) the opposing party's nondisclosure, response or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) *If the motion is denied.* If the motion is denied, the court may issue any protective order authorized under ~~subsection (c) of~~ K.S.A. 60-226(c), and amendments thereto, and must, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party or deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney's fees. But the court must not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) *If the motion is granted in part and denied in part.* If the motion

is granted in part and denied in part, the court may issue any protective order authorized under ~~subsection (e) of K.S.A. 60-226(c)~~, and amendments thereto, and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion.

(b) *Failure to comply with a court order.* (1) *Sanctions in the district where the deposition is taken.* If the court in the district where the discovery is taken orders a deponent to be sworn or to answer a question and the deponent fails to obey, the failure may be treated as contempt of court.

(2) *Sanctions in the district where the action is pending.* (A) *For not obeying a discovery order.* If a party or a party's officer, director or managing agent, or a witness designated under ~~subsection (b)(6) of K.S.A. 60-230(b)(6)~~ or ~~subsection (a)(4) of K.S.A. 60-231(a)(4)~~, and amendments thereto, fails to obey an order to provide or permit discovery, including an order under subsection (a) or under K.S.A. 60-235, and amendments thereto, the court where the action is pending may issue further just orders. They may include the following:

(i) Directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(iii) striking pleadings in whole or in part;

(iv) staying further proceedings until the order is obeyed;

(v) dismissing the action or proceeding in whole or in part;

(vi) rendering a default judgment against the disobedient party; or

(vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

(B) *For not producing a person for examination.* If a party fails to comply with an order under ~~subsection (a) of K.S.A. 60-235(a)~~, and amendments thereto, requiring it to produce another person for examination, the court may issue any of the orders listed in paragraphs (2)(A)(i) through (2)(A)(vi), unless the disobedient party shows that it cannot produce the other person.

(C) *Payment of expenses.* Instead of, or in addition to, the orders above, the court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(c) *Failure to disclose, to supplement an earlier response or to admit.* (1) *Failure to disclose or supplement.* If a party fails to provide information or identify a witness as required by ~~subsection (b)(6) or (c) of K.S.A. 60-226(b)(6) or (e)~~, and amendments thereto, the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing

or at a trial, unless the failure was substantially justified or is harmless. In addition to, or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

(A) May order payment of the reasonable expenses, including attorney's fees, caused by the failure;

(B) may inform the jury of the party's failure; and

(C) may impose other appropriate sanctions, including any of the orders listed in subsections (b)(2)(A)(i) through (b)(2)(A)(vi).

(2) *Failure to admit.* If a party fails to admit what is requested under K.S.A. 60-236, and amendments thereto, and if the requesting party later proves the document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney's fees, incurred in making that proof. The court must so order unless:

(A) The request was held objectionable under ~~subsection (a) of K.S.A. 60-236(a)~~, and amendments thereto;

(B) the admission sought was of no substantial importance;

(C) the party failing to admit had a reasonable ground to believe that it might prevail on the matter; or

(D) there was other good reason for the failure to admit.

(d) *Party's failure to attend its own deposition, serve answers to interrogatories or respond to a request for inspection.* (1) *In general.* (A) *Motion; grounds for sanctions.* The court where the action is pending may, on motion, order sanctions if:

(i) A party or a party's officer, director or managing agent, or a person designated under ~~subsection (b)(6) of K.S.A. 60-230(b)(6) or subsection (a)(4) of K.S.A. 60-231(a)(4)~~, and amendments thereto, fails, after being served with proper notice, to appear for that person's deposition; or

(ii) a party, after being properly served with interrogatories under K.S.A. 60-233, and amendments thereto, or a request for inspection under K.S.A. 60-234, and amendments thereto, fails to serve its answers, objections or written response.

(B) *Certification.* A motion for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without court action and must describe the steps taken by all attorneys or unrepresented parties to resolve the issues in dispute.

(2) *Unacceptable excuse for failing to act.* A failure described in paragraph (1)(A) is not excused on the ground that the discovery sought was objectionable, unless the party failing to act has a pending motion for a protective order under ~~subsection (c) of K.S.A. 60-226(c)~~, and amendments thereto.

(3) *Types of sanctions.* Sanctions may include any of the orders listed in subsections (b)(2)(A)(i) through (b)(2)(A)(vi). Instead of, or in addition



to, these sanctions, the court must require the party failing to act, the attorney advising the party, or both to pay the reasonable expenses, including attorney's fees, ~~cause caused~~ by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

(e) ~~Failure to provide preserve electronically stored information. Absent exceptional circumstances, a court may not impose sanctions under this article on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system. If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court:~~

(1) ~~Upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or~~

(2) ~~only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation, may:~~

(A) ~~Presume that the lost information was unfavorable for the party;~~

(B) ~~instruct the jury that it may or must presume the information was unfavorable to the party; or~~

(C) ~~dismiss the action or enter a default judgment.~~

Sec. 9. K.S.A. 2016 Supp. 60-255 is hereby amended to read as follows: 60-255. (a) *Entry*. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, the party is in default. On request and a showing that a party is entitled to a default judgment, the court must render judgment against the party in default for the remedy to which the requesting party is entitled. But a default judgment may be entered against a minor or incapacitated person only if represented by a guardian, conservator or other legally authorized representative who has appeared in the action, or by a guardian ad litem appointed by the court. If the party against whom a default judgment is sought has appeared personally, or by a representative, that party or its representative must be served with written notice of the request for judgment at least seven days before the hearing. The court may conduct hearings or make referrals, preserving any statutory right to a jury trial, when to enter or effectuate judgment it needs to:

(1) Conduct an accounting;

(2) determine the amount of damages;

(3) establish the truth of any allegation by evidence; or

(4) investigate any other matter.

(b) *Setting aside a default judgment*. The court may set aside a *final* default judgment under ~~subsection (b) of~~ K.S.A. 60-260(b) and ~~K.S.A. 60-309, and amendments thereto.~~

(c) *Judgment against the state.* A default judgment may be entered against the state, its officers or its agencies only if the claimant establishes a claim or right to relief by evidence that satisfies the court.

Sec. 10. K.S.A. 2016 Supp. 60-102, 60-206, 60-216, 60-226, 60-230, 60-231, 60-234, 60-237, 60-255 and 60-268 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 24, 2017.

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## CHAPTER 76

### SENATE BILL No. 149

AN ACT concerning the attorney general; relating to briefs in a criminal matter or postconviction case in the supreme court or court of appeals; legal representation charges; legal services; creating the attorney general's state agency representation fund; the office of the inspector general; enforcement of the scrap metal theft reduction act; amending K.S.A. 2016 Supp. 50-6,109a, 50-6,109c, 50-6,110, 50-6,111, 50-6,112a, 50-6,112b and 75-7427 and repealing the existing sections.

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

New Section 1. In a criminal matter or a postconviction case in the Kansas supreme court or the Kansas court of appeals:

(a) A copy of each brief must be served on the attorney general of Kansas; and

(b) no brief may be filed by or on behalf of the state of Kansas or any officer or agent of the state unless the approval of the attorney general or a member of the attorney general's staff is endorsed on the brief.

New Sec. 2. (a) The attorney general may determine, fix and establish a system of legal representation charges and collect such charges from any state agency to which the attorney general provides legal services. The attorney general may determine the amount of legal representation charges due from a state agency by use of a schedule of fees and costs for legal services published by the attorney general or by entering into an agreement with a state agency for payment by such agency for legal services. Such schedule of fees and costs shall not exceed the amount of compensation established pursuant to K.S.A. 22-4507, and amendments thereto, for attorneys appointed by the court to perform services for an indigent person.

(b) As used in this section:

(1) "State agency" means any department of state government or any agency thereof that collects fees for licensing, regulating or certifying a person or profession;

(2) "legal representation charges" means any costs, fees, expenses or

other financial liability incurred by the attorney general, including, but not limited to, attorney fees, to provide legal services to a state agency; and

(3) “legal services” means any form of legal advice, representation or counseling involving an attorney-client relationship, including, but not limited to, general counsel services and representation of a state agency in any administrative law matter. “Legal services” includes legal services provided at the attorney general’s discretion at the request of a state agency and legal services the attorney general is required by law to provide to a state agency. “Legal services” shall not include any representation provided pursuant to the Kansas tort claims act, K.S.A. 75-6101 et seq., and amendments thereto, or the defense of civil rights claims pursuant to K.S.A. 75-6116, and amendments thereto.

(c) The amounts collected under this section shall be remitted by the attorney general 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 attorney general’s state agency representation fund, which is hereby created. Moneys in the attorney general’s state agency representation fund shall be expended by the attorney general for operations of the office of the attorney general.

(d) Nothing in this section shall impose an obligation for the attorney general to provide legal services to any state agency.

(e) The attorney general may adopt rules and regulations as necessary to implement this section.

New Sec. 3. (a) On and after the effective date of this act, all of the powers, duties, functions, records and property of the office of the inspector general within the department of health and environment are hereby transferred to the office of inspector general within the office of the attorney general, except as is otherwise provided.

(b) (1) The office of inspector general within the office of the attorney general shall be the successor in every way of the powers, duties and functions of the office of the inspector general within the department of health and environment in which the same were vested prior to the effective date of this act, except as otherwise provided.

(2) Whenever the office of the inspector general within the department of health and environment, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the office of inspector general within the office of the attorney general.

(3) All orders or directives of the office of the inspector general within the department of health and environment in existence on the effective date of this act shall continue to be effective and shall be deemed to be the orders or directives of the office of inspector general within the office

of the attorney general, until revised, amended, repealed or nullified pursuant to law.

(c) On the effective date of this act, all unexpended balances of appropriations of the office of the inspector general within the department of health and environment shall be transferred to the office of the attorney general to be used by the office of inspector general within the office of the attorney general to carry out the powers, duties and functions transferred to the office of the inspector general within the office of the attorney general by the provisions of this act.

(d) (1) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any existing state agency mentioned in this act, or by or against any officer of the state in the officer's official capacity or in relation to the discharge of the officer's official duties, shall abate by reason of the taking effect of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such existing state agency, or any officer affected.

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

(e) Whenever any conflict arises as to the disposition of any power, function or duty or the unexpended balance of any appropriation as a result of any abolishment, transfer, attachment or other change made by this act, or under authority of this act, the conflict shall be resolved by the governor and such decision of the governor shall be final.

Sec. 4. K.S.A. 2016 Supp. 50-6,109a is hereby amended to read as follows: 50-6,109a. (a) The attorney general is hereby given jurisdiction and authority over all matters involving the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act including to:

(1) Employ or appoint agents as necessary to implement, administer and enforce the act;

(2) contract;

(3) expend funds;

(4) license and discipline;

(5) investigate;

(6) issue subpoenas;

(7) keep statistics; and

(8) conduct education and outreach programs to promote compliance with the act.

(b) In accordance with the rules and regulations filing act, the attorney general is hereby authorized to adopt rules and regulations necessary to implement the provisions of the scrap metal theft reduction act.

(c) There is hereby established in the state treasury the scrap metal theft reduction fee fund to be administered by the attorney general. All

moneys received by the attorney general from fees, charges or penalties collected under the provisions of the scrap metal theft reduction act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount thereof in the state treasury to the credit of the scrap metal theft reduction fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee. All moneys credited to the scrap metal theft reduction fee fund shall be expended for the administration of the duties, functions and operating expenses incurred under the provisions of the scrap metal theft reduction act.

(d) Before ~~July~~ *January* 1, ~~2016~~ 2019, the attorney general shall establish and maintain a database which shall be a central repository for the information required to be provided under K.S.A. 2016 Supp. 50-6,110, and amendments thereto. The database shall be maintained for the purpose of providing information to law enforcement and for any other purpose deemed necessary by the attorney general to implement and enforce the provisions of the scrap metal theft reduction act.

(e) The information required by K.S.A. 2016 Supp. 50-6,110, and amendments thereto, maintained in such database by the attorney general, or by any entity contracting with the attorney general, submitted to, maintained or stored as part of the system shall:

(1) Be confidential, shall only be used for investigatory, evidentiary or analysis purposes related to criminal violations of city, state or federal law and shall only be released to law enforcement in response to an official investigation or as permitted in subsection (d); and

(2) not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2020, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

Sec. 5. K.S.A. 2016 Supp. 50-6,109c is hereby amended to read as follows: 50-6,109c. (a) Any scrap metal dealer who violates any of the provisions of the scrap metal theft reduction act, in addition to any other penalty provided by law, may incur a civil penalty imposed pursuant to subsection (b) in an amount not less than \$100 nor more than \$5,000 for each violation.

(b) The attorney general, upon a finding that a scrap metal dealer or any employee or agent thereof or any person or entity required to be registered as a scrap metal dealer has violated any of the provisions of the scrap metal theft reduction act may impose a civil penalty as provided in this subsection upon such scrap metal dealer.

(c) A civil penalty shall not be imposed pursuant to this section except

upon the written order of the attorney general to the scrap metal dealer who is responsible for the violation. Such order is a final order for purposes of judicial review and shall state the violation, the penalty to be imposed and the right of such dealer to appeal as provided in the Kansas judicial review act.

(d) ~~This section shall take effect on and after January 1, 2016~~ *This section shall be unenforceable and shall not apply from the effective date of this act to January 1, 2019.*

Sec. 6. K.S.A. 2016 Supp. 50-6,110 is hereby amended to read as follows: 50-6,110. (a) It shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person meets the requirements of this subsection.

(1) Such person shall present to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following: The seller's name, address, sex, date of birth and the seller's driver's license, military identification card, passport or personal identification license. An official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

(2) Such person shall complete and sign the statement provided for in subsection (b)(10).

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:

(1) The time, date and place of transaction;

(2) the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;

(3) a copy of the identification card or document containing such identifying number. *Failure to comply with the provisions of this paragraph between the effective date of this act and January 1, 2019, may result in an assessment of a civil penalty by the attorney general of not less than \$100 nor more than \$5,000 for each violation;*

(4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;

(5) a general description, made in accordance with the custom of the

trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;

(6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;

(7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;

(8) the price paid for, traded for or dealt for in a transaction for the junk vehicle or other regulated scrap metal property;

(9) the full name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase; and

(10) a signed statement from the seller indicating from where the property was obtained and that: (A) Each item is the seller's own personal property, is free of encumbrances and is not stolen; or (B) the seller is acting for the owner and has permission to sell each item. If the seller is not the owner, such statement shall include the name and address of the owner of the property.

(c) Every scrap metal dealer shall photograph ~~both the seller and the~~ item or lot of items being sold at the time of purchase or receipt of any item for which such information is required to be presented. Such photographs shall be kept with the record of the transaction and the scrap metal dealer's register of information required by subsection (b). *Failure to comply with the provisions of this subsection between the effective date of this act and January 1, 2019, may result in an assessment of a civil penalty by the attorney general of not less than \$100 nor more than \$5,000 for each violation.*

(d) The scrap metal dealer's register of information required by subsection (b), including copies of identification cards and signed statements by sellers, and photographs required by subsection (c) may be kept in electronic format.

(e) Every scrap metal dealer shall forward the information required by this section to the database described in K.S.A. 2016 Supp. 50-6,109a, and amendments thereto.

(f) Notwithstanding any other provision to the contrary, this section shall not apply to transactions in which the seller is a:

(1) Registered scrap metal dealer;

(2) vehicle dealer licensed under chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or

(3) scrap metal dealer or vehicle dealer registered or licensed in another state.

(g) (1) Except as provided in subsection (g)(2), this section shall not apply to transactions in which the seller is known to the purchasing scrap metal dealer to be a licensed business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(2) The attorney general may determine, by rules and regulations, which of the requirements of this section shall apply to transactions described in subsection (g)(1).

*(h) The amendments made to subsection (e) by section 13 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from the effective date of this act to January 1, 2019.*

Sec. 7. K.S.A. 2016 Supp. 50-6,111 is hereby amended to read as follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2016 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 2016 Supp. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of the scrap metal theft reduction act shall be open at all times to law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to law enforcement officers upon request.

(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 2016 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without:

(1) Inspecting the vehicle offered for sale and recording the vehicle identification number; and

(2) obtaining an appropriate bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

(c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor unless such minor is accompanied by a parent or guardian or such minor is a licensed scrap metal dealer.

(d) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item on behalf of the governmental entity; utility provider; railroad; cemetery; civic organization; manufacturing, industrial or other commercial vendor that generates or sells such items in the regular course of business; or scrap metal dealer:

- (1) Utility access cover;
- (2) street light poles or fixtures;
- (3) road or bridge guard rails;
- (4) highway or street sign;



- (5) water meter cover;
- (6) traffic directional or traffic control signs;
- (7) traffic light signals;
- (8) any metal marked with any form of the name or initials of a governmental entity;
- (9) property owned and marked by a telephone, cable, electric, water or other utility provider;
- (10) property owned and marked by a railroad;
- (11) funeral markers or vases;
- (12) historical markers;
- (13) bales of regulated metal;
- (14) beer kegs;
- (15) manhole covers;
- (16) fire hydrants or fire hydrant caps;
- (17) junk vehicles with missing or altered vehicle identification numbers;
- (18) real estate signs;
- (19) bleachers or risers, in whole or in part;
- (20) twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge; and
- (21) burnt wire.

(e) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of week-ends and holidays.

(f) *Failure to comply with the provisions of this section between the effective date of this act and January 1, 2019, may result in an assessment of a civil penalty by the attorney general of not less than \$100 nor more than \$5,000 for each violation.*

Sec. 8. K.S.A. 2016 Supp. 50-6,112a is hereby amended to read as follows: 50-6,112a. (a) A scrap metal dealer shall not purchase any regulated scrap metal without having first registered each place of business with the attorney general as herein provided.

(b) The attorney general shall establish a system for the public to confirm scrap metal dealer registration certificates. Such system shall include a listing of valid registration certificates and such other information collected pursuant to the scrap metal theft reduction act, as the attorney general may determine is appropriate. Disclosure of any information through use of the system established by the attorney general shall not be deemed to be an endorsement of any scrap metal dealer or determi-

nation of any facts, qualifications, information or reputation of any scrap metal dealer by the attorney general, the state, or any of their respective agents, officers, employees or assigns.

(c) A registration for a scrap metal dealer shall be verified and upon a form approved by the attorney general and contain:

(1) (A) The name and residence of the applicant, including all previous names and aliases; or

(B) if the applicant is a: Corporation, the name and address of each manager, officer or director thereof, and each stockholder owning in the aggregate more than 25% of the stock of such corporation; or partnership or limited liability company, the name and address of each partner or member;

(2) the length of time that the applicant has resided within the state of Kansas and a list of all residences outside the state of Kansas during the previous 10 years;

(3) the particular place of business for which a registration is desired, the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business;

(4) the name of the owner of the premises upon which the place of business is located; and

(5) the applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for: A violation of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2016 Supp. 21-5801 through 21-5839 or K.S.A. 2016 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2016 Supp. 21-5903, and amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2016 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2016 Supp. 21-5905, and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

(d) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of not less than \$500 nor more than \$1,500, as prescribed by the attorney general for each particular place of business for which a registration is desired.

(e) The attorney general shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer qualified to file such registration, to purchase regulated scrap metals. Such registration shall be issued for a period of one year.

(f) If an original registration is accepted, the attorney general shall grant and issue renewals thereof upon application of the registration

holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The renewal fee shall be not more than \$1,500, as prescribed by the attorney general.

(g) Any registration issued under the scrap metal theft reduction act shall not be transferable.

(h) This section shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

(i) *The amendments made to subsections (d) and (f) by section 15 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from the effective date of this act to January 1, 2019.*

Sec. 9. K.S.A. 2016 Supp. 50-6,112b is hereby amended to read as follows: 50-6,112b. (a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the attorney general shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) A person who is not a citizen or legal permanent resident of the United States.

(2) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under the scrap metal theft reduction act.

(3) A person who, within 10 years immediately preceding the date of filing, has pled guilty to, entered into a diversion agreement for, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of: Article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2016 Supp. 21-5801 through 21-5839 or K.S.A. 2016 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2016 Supp. 21-5903, and amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2016 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2016 Supp. 21-5905, and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

(4) A person who within the 10 years immediately preceding the date of registration held a scrap metal dealer registration which was revoked,

or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last 10 years.

(6) A partnership or limited liability company, unless all partners or members of the partnership or limited liability company are otherwise qualified to file a registration.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under the scrap metal theft reduction act.

(10) A person who does not own the premises upon which the place of business is located for which a license is sought, unless the person has a written lease for at least  $\frac{3}{4}$  of the period for which the license is to be issued.

(c) Any person filing a scrap metal dealer registration may be subject to a criminal history records check and may be given a written notice that a criminal history records check is required. The attorney general may require such applicant to be fingerprinted and submit to a state and national criminal history record check. If required, such fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The attorney general shall submit any fingerprints provided to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the attorney general in the taking and processing of fingerprints of applicants. The attorney general may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant and in the official determination of whether the scrap metal dealer registration shall be accepted. If the criminal history record information is used to disqualify an applicant, the applicant shall be informed in writing of that decision.

*(d) The amendments made to subsections (b)(10) and (c) by section 16 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from the effective date of this act to January 1, 2019.*

Sec. 10. K.S.A. 2016 Supp. 75-7427 is hereby amended to read as follows: 75-7427. (a) As used in this section:

(1) “Attorney general” means the attorney general *of the state of Kansas*, employees of the attorney general or authorized representatives of the attorney general.

(2) “Benefit” means the receipt of money, goods, items, facilities, accommodations or anything of pecuniary value.

(3) “Claim” means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic or written communication that is utilized to identify any goods, service, item, facility or accommodation as reimbursable to the state medicaid program, or its fiscal agents, the state mediKan program or the state children’s health insurance program or which states income or expense.

(4) “Client” means past or present beneficiaries or recipients of the state medicaid program, the state mediKan program or the state children’s health insurance program.

(5) “Contractor” means any contractor, supplier, vendor or other person who, through a contract or other arrangement, has received, is to receive or is receiving public funds or in-kind contributions from the contracting agency as part of the state medicaid program, the state mediKan program or the state children’s health insurance program, and shall include any subcontractor.

(6) “Contractor files” means those records of contractors which relate to the state medicaid program, the state mediKan program or the state children’s health insurance program.

(7) “Fiscal agent” means any corporation, firm, individual, organization, partnership, professional association or other legal entity which, through a contractual relationship with the state of Kansas receives, processes and pays claims under the state medicaid program, the state mediKan program or the state children’s health insurance program.

(8) “Health care provider” means a health care provider as defined under K.S.A. 65-4921, and amendments thereto, who has applied to participate in, who currently participates in, or who has previously participated in the state medicaid program, the state mediKan program or the state children’s health insurance program.

~~(9) “Department” means the department of health and environment, or its successor agency.~~

~~(10)~~ “Managed care program” means a program which provides coordination, direction and provision of health services to an identified group of individuals by providers, agencies or organizations.

~~(11)~~(10) “Medicaid program” means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

~~(12)~~(11) “Person” means any agency, association, corporation, firm,

limited liability company, limited liability partnership, natural person, organization, partnership or other legal entity, the agents, employees, independent contractors, and subcontractors, thereof, and the legal successors thereto.

~~(13)~~(12) “Provider” means a person who has applied to participate in, who currently participates in, who has previously participated in, who attempts or has attempted to participate in the state medicaid program, the state mediKan program or the state children’s health insurance program, by providing or claiming to have provided goods, services, items, facilities or accommodations.

~~(14)~~(13) “Recipient” means an individual, either real or fictitious, in whose behalf any person claimed or received any payment or payments from the state medicaid program, or its fiscal agent, the state mediKan program or the state children’s health insurance program, whether or not any such individual was eligible for benefits under the state medicaid program, the state mediKan program or the state children’s health insurance program.

~~(15)~~(14) “Records” means all written documents and electronic or magnetic data, including, but not limited to, medical records, x-rays, professional, financial or business records relating to the treatment or care of any recipient; goods, services, items, facilities or accommodations provided to any such recipient; rates paid for such goods, services, items, facilities or accommodations; and goods, services, items, facilities or accommodations provided to nonmedicaid recipients to verify rates or amounts of goods, services, items, facilities or accommodations provided to medicaid recipients, as well as any records that the state medicaid program, or its fiscal agents, the state mediKan program or the state children’s health insurance program require providers to maintain. “Records” shall not include any report or record in any format which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

~~(16)~~(15) “State children’s health insurance program” means the state children’s health insurance program as provided in K.S.A. 38-2001 et seq., and amendments thereto.

(b) (1) There is hereby established within the ~~department of health and environment~~ *office of the attorney general* the office of inspector general. All budgeting, purchasing ~~and~~, related management functions *and personnel* of the office of inspector general shall be administered under the direction and supervision of the ~~executive director of the department of health and environment~~ *attorney general*. The purpose of the office of inspector general is to establish a full-time program of audit, investigation and performance review to provide increased accountability, integrity and oversight of the state medicaid program, the state mediKan program and the state children’s health insurance program ~~within the~~

jurisdiction of the department of health and environment and to assist in improving agency and program operations and in deterring and identifying fraud, waste, abuse and illegal acts. The office of inspector general shall be independent and free from political influence and in performing the duties of the office under this section shall conduct investigations, audits, evaluations, inspections and other reviews in accordance with professional standards that relate to the fields of investigation and auditing in government.

(2) (A) The inspector general shall be appointed by the ~~department of health and environment~~ *attorney general* with the advice and consent of the senate and subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided in K.S.A. 46-2601, and amendments thereto, no person appointed to the position of inspector general shall exercise any power, duty or function of the inspector general until confirmed by the senate. The inspector general shall be selected without regard to political affiliation and on the basis of integrity and capacity for effectively carrying out the duties of the office of inspector general. The inspector general shall possess demonstrated knowledge, skills, abilities and experience in conducting audits or investigations and shall be familiar with the programs subject to oversight by the office of inspector general.

(B) No former or current executive or manager of any program or agency subject to oversight by the office of inspector general may be appointed inspector general within two years of that individual's period of service with such program or agency. The inspector general shall hold at time of appointment, or shall obtain within one year after appointment, certification as a certified inspector general from a national organization that provides training to inspectors general.

(C) ~~The term of the person first appointed to the position of inspector general shall expire on January 15, 2009. Thereafter,~~ A person appointed to the position of inspector general shall serve for a term which shall expire on January 15 of each year in which the whole senate is sworn in for a new term.

(D) The inspector general shall be in the ~~classified~~ *unclassified* service and shall receive ~~such compensation as is determined by law~~ *an annual salary in an amount equal to the annual salary paid by the state to a district court judge*, except that such compensation may be increased but not diminished during the term of office of the inspector general. The inspector general may be removed from office prior to the expiration of the inspector general's term of office ~~in accordance with the Kansas civil service act~~ *by the attorney general for cause*. The inspector general shall exercise independent judgment in carrying out the duties of the office of inspector general under subsection (b). Appropriations for the office of inspector general shall be made to the ~~department of health and environment~~ *attorney general* by separate line item appropriations for the

office of inspector general. The inspector general shall report to the ~~secretary of health and environment~~ *attorney general*.

(E) *Subject to subsection (b)(1)*, the inspector general shall have general managerial control over the office of the inspector general and shall establish the organization structure of the office as the inspector general deems appropriate to carry out the responsibilities and functions of the office.

(3) Within the limits of appropriations therefor, the ~~inspector~~ *attorney general* may hire such employees in the unclassified service as are necessary to administer the office of the inspector general. Such employees shall serve at the pleasure of the ~~inspector~~ *attorney general*. Subject to appropriations *and to subsection (b)(1)*, the inspector general may obtain the services of certified public accountants, qualified management consultants, professional auditors, or other professionals necessary to independently perform the functions of the office.

(c) (1) In accordance with the provisions of this section, the duties of the office of inspector general shall be to oversee, audit, investigate and make performance reviews of the state medicaid program, the state medikan program and the state children's health insurance program; ~~which programs are within the jurisdiction of the department of health and environment or their successor programs.~~

(2) In order to carry out the duties of the office, the inspector general shall conduct independent and ongoing evaluation of ~~the department of health and environment and of such programs administered by the department of health and environment or their successor programs,~~ which oversight includes, but is not limited to, the following:

(A) Investigation of fraud, waste, abuse and illegal acts ~~by the department of health and environment and its agents, employees, vendors, contractors, consumers, clients and health care providers or other providers directly relating to such programs.~~

(B) Audits of ~~the department of health and environment, its employees state programs,~~ contractors, vendors and health care providers related to ensuring that appropriate payments are made for services rendered and to the recovery of overpayments.

(C) Investigations of fraud, waste, abuse or illegal acts committed by clients of ~~the department of health and environment programs~~ or by consumers of services ~~administered by the department of health and environment of such programs.~~

(D) Monitoring adherence to the terms of ~~the~~ *any* contract between ~~the department of health and environment~~ *a state agency* and an organization, *if any*, with which ~~the department~~ *state agency* has entered into a contract to make claims payments.

(3) Upon finding credible evidence of fraud, waste, abuse or illegal acts, the inspector general shall report its findings to ~~the department of health and environment and refer the findings to the~~ *attorney general*.



(d) The inspector general shall have access to all pertinent information, confidential or otherwise, and to all personnel and facilities of ~~the department of health and environment, their employees, a state agency,~~ state vendors, contractors and health care providers and any federal, state or local governmental agency that are necessary to perform the duties of the office as directly related to such programs ~~administered by the department.~~ Access to contractor or health care provider files shall be limited to those files necessary to verify the accuracy of the contractor's or health care provider's invoices or their compliance with the contract provisions or program requirements. No health care provider shall be compelled under the provisions of this section to provide individual medical records of patients who are not clients of the state medicaid program, the state medikan program or the state children's health insurance program. State and local governmental agencies are authorized and directed to provide to the inspector general requested information, assistance or cooperation.

(e) Except as otherwise provided in this section, the inspector general and all employees and former employees of the office of inspector general shall be subject to the same duty of confidentiality imposed by law on any such person or agency with regard to any such information, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the inspector general and all employees and former employees of the office of inspector general shall be subject to the provisions of subsection (f), and the inspector general may furnish all such information to the attorney general, Kansas bureau of investigation or office of the United States attorney in Kansas pursuant to subsection (f). Upon receipt thereof, the attorney general, Kansas bureau of investigation or office of the United States attorney in Kansas and all assistants and all other employees and former employees of such offices shall be subject to the same duty of confidentiality with the exceptions that any such information may be disclosed in criminal or other proceedings which may be instituted and prosecuted by the attorney general or the United States attorney in Kansas, and any such information furnished to the attorney general, the Kansas bureau of investigation or the United States attorney in Kansas under subsection (f) may be entered into evidence in any such proceedings.

(f) All investigations conducted by the inspector general shall be conducted in a manner that ensures the preservation of evidence for use in criminal prosecutions, *civil actions* or agency administrative actions. If the inspector general determines that a possible criminal act *or false claim* relating to fraud in the provision or administration of such programs ~~administered by the department of health and environment~~ has been committed, the inspector general shall immediately notify the ~~office of the Kansas~~ attorney general. If the inspector general determines that a possible criminal act has been committed within the jurisdiction of the office,

the inspector general may request the special expertise of the Kansas bureau of investigation. The inspector general may present for prosecution the findings of any criminal investigation to the office of the attorney general or the office of the United States attorney in Kansas.

(g) To carry out the duties as described in this section, the inspector general and the inspector general's designees shall have the power to compel by subpoena the attendance and testimony of witnesses and the production of books, electronic records and papers as directly related to such programs ~~administered by the department of health and environment~~. Access to contractor files shall be limited to those files necessary to verify the accuracy of the contractor's invoices or its compliance with the contract provisions. No health care provider shall be compelled to provide individual medical records of patients who are not clients of ~~the department~~ *such a program or programs*.

(h) The inspector general shall report all convictions, terminations and suspensions taken against vendors, contractors and health care providers to ~~the department of health and environment~~ and to any agency *contracting with or* responsible for licensing or regulating those persons or entities. If the inspector general determines reasonable suspicion exists that an act relating to the violation of an agency licensure or regulatory standard has been committed by a vendor, contractor or health care provider who is licensed or regulated by an agency, the inspector general shall immediately notify such agency of the possible violation.

(i) The inspector general shall make annual reports, findings and recommendations regarding the office's investigations into reports of fraud, waste, abuse and illegal acts relating to any such programs ~~administered by the director of health care finance to the secretary of health and environment~~ *to the appropriate state agency*, the legislative post auditor, the committee on ways and means of the senate, the committee on appropriations of the house of representatives, *the attorney general* and the governor. These reports shall include, but not be limited to, the following information:

- (1) Aggregate provider billing and payment information;
- (2) the number of audits of such programs administered by the department of health and environment and the dollar savings, if any, resulting from those audits;
- (3) health care provider sanctions, in the aggregate, including terminations and suspensions; and
- (4) a detailed summary of the investigations undertaken in the previous fiscal year, which summaries shall comply with all laws and rules and regulations regarding maintaining confidentiality in such programs ~~administered by the department of health and environment~~.

(j) Based upon the inspector general's findings under subsection (c), the inspector general may make such recommendations to ~~the department of health and environment~~ *state agency or agencies which admin-*

*ister such program or programs* or the legislature for changes in law, rules and regulations, policy or procedures as the inspector general deems appropriate to carry out the provisions of law or to improve the efficiency of such programs ~~administered by the department of health and environment~~. The inspector general shall not be required to obtain permission or approval from any other official or department prior to making any such recommendation.

(k) (1) The inspector general shall make provision to solicit and receive reports of fraud, waste, abuse and illegal acts in such programs ~~administered by the department of health and environment~~ from any person or persons who shall possess such information. The inspector general shall not disclose or make public the identity of any person or persons who provide such reports pursuant to this subsection unless such person or persons consent in writing to the disclosure of such person's identity. Disclosure of the identity of any person who makes a report pursuant to this subsection shall not be ordered as part of any administrative or judicial proceeding. Any information received by the inspector general from any person concerning fraud, waste, abuse or illegal acts in such programs ~~administered by the department of health and environment~~ shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, except such information may be disclosed if: (A) Release of the information would not result in the identification of the person who provided the information; (B) the person or persons who provided the information to be disclosed consent in writing prior to its disclosure; (C) the disclosure is necessary to protect the public health; or (D) the information to be disclosed is required in an administrative proceeding or court proceeding and appropriate provision has been made to allow disclosure of the information without disclosing to the public the identity of the person or persons who reported such information to the inspector general.

(2) No person shall:

(A) Prohibit any agent, employee, contractor or subcontractor from reporting any information under subsection (k)(1); or

(B) require any such agent, employee, contractor or subcontractor to give notice to the person prior to making any such report.

(3) Subsection (k)(2) shall not be construed as:

(A) Prohibiting an employer from requiring that an employee inform the employer as to legislative or auditing agency requests for information or the substance of testimony made, or to be made, by the employee to legislators or the auditing agency, as the case may be, on behalf of the employer;

(B) permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legis-

lative committee or by an auditing agency to appear at a meeting with officials of the auditing agency;

(C) authorizing an employee to represent the employee's personal opinions as the opinions of the employer; or

(D) prohibiting disciplinary action of an employee who discloses information which: (i) The employee knows to be false or which the employee discloses with reckless disregard for its truth or falsity; (ii) the employee knows to be exempt from required disclosure under the open records act; or (iii) is confidential or privileged under statute or court rule.

(4) Any agent, employee, contractor or subcontractor who alleges that disciplinary action has been taken against such agent, employee, contractor or subcontractor in violation of this section may bring an action for any damages caused by such violation in district court within 90 days after the occurrence of the alleged violation.

(5) Any disciplinary action taken against an employee of a state agency or firm as such terms are defined under ~~subsection (b) of K.S.A. 75-2973~~, and amendments thereto, for making a report under subsection (k)(1) shall be governed by the provisions of K.S.A. 75-2973, and amendments thereto.

(l) The scope, timing and completion of any audit or investigation conducted by the inspector general shall be within the discretion of the inspector general. Any audit conducted by the inspector general's office shall adhere and comply with all provisions of generally accepted governmental auditing standards promulgated by the United States government accountability office.

(m) Nothing in this section shall limit investigations by any state department or agency that may otherwise be required *or permitted* by law or that may be necessary in carrying out the duties and functions of such agency.

(n) No contractor who has been convicted of fraud, waste, abuse or illegal acts or whose actions have caused the state of Kansas to pay fines to or reimburse the federal government more than \$1,000,000 in the medicaid program shall be eligible for any state medicaid contracts subsequent to such conviction unless the ~~department of health and environment~~ *attorney general* finds that the contractor is the sole source for such contracts, is the least expensive source for the contract, has reimbursed the state of Kansas for all losses caused by the contractor, or the removal of the contractor would create a substantial loss of access for medicaid beneficiaries, in which case ~~the department~~, after a specific finding to this effect ~~may waive~~, the prohibition of this subsection *may be waived by the attorney general*. Nothing in this section shall be construed to conflict with federal law, or to require or permit the use of federal funds where prohibited.

(o) ~~The department of health and environment, in accordance with~~

~~K.S.A. 75-4319, and amendments thereto, may recess for a closed, executive meeting under the open meetings act, K.S.A. 75-4317 through 75-4320a, and amendments thereto, to discuss with the inspector general any information, records or other matters that are involved in any investigation or audit under this section. All information and records of the inspector general that are *made, maintained, kept*, obtained or received under any investigation or audit under this section shall be confidential, except as required or authorized pursuant to this section.~~

Sec. 11. K.S.A. 2016 Supp. 50-6,109a, 50-6,109c, 50-6,110, 50-6,111, 50-6,112a, 50-6,112b and 75-7427 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 24, 2017.

Published in the *Kansas Register* June 1, 2017.



CHAPTER 77

Senate Substitute for HOUSE BILL No. 2053

AN ACT concerning the care and treatment of certain persons; enacting the crisis intervention act; amending K.S.A. 59-2953, 59-2980, 59-29b53 and 59-29b80 and K.S.A. 2016 Supp. 39-2001, 39-2002, 39-2003, 59-2978 and 59-29b78 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 14, and amendments thereto, shall be known and may be cited as the crisis intervention act.

New Sec. 2. When used in the crisis intervention act:

(a) “Behavioral health professional” includes a physician, physician assistant, psychologist, qualified mental health professional or licensed addiction counselor.

(b) “Head of a crisis intervention center” means the administrative director of a crisis intervention center or a behavioral health professional designated by such person.

(c) “Law enforcement officer” shall have the meaning ascribed to it in K.S.A. 22-2202, and amendments thereto.

(d) “Licensed addiction counselor” shall have the meaning ascribed to it in K.S.A. 59-29b46(d), (e) or (f), and amendments thereto.

(e) “Crisis intervention center” means any entity licensed by the Kansas department for aging and disability services that is open 24 hours a day, 365 days a year, equipped to serve voluntary and involuntary indi-

viduals in crisis due to mental illness, substance abuse or a co-occurring condition, and that uses certified peer specialists.

(f) “Crisis intervention center service area” means the counties to which the crisis intervention center has agreed to provide service.

(g) “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 such hospital or agency.

(h) “Psychologist” means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

(i) “Qualified mental health professional” shall have the meaning ascribed to it in K.S.A. 59-2946(j), and amendments thereto.

(j) “Treatment” means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner; and 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.

(k) “Domestic partner” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom such person is legally married.

(l) “Physician assistant” means a person licensed to practice medicine and surgery as a physician assistant by the state board of healing arts.

New Sec. 3. (a) The fact that a person has been detained for emergency observation and treatment under this act shall not be construed to mean that such person shall have lost any civil right such person would otherwise have as a resident or citizen, any property right or legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable policies which the head of a crisis intervention center may, for good cause shown, find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus. No judicial action taken as part of the procedure provided in section 8(c), and amendments thereto, shall constitute a finding by the court.

(b) There shall be no implication or presumption that a patient within the terms of this act is, for that reason alone, a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3097, and amendments thereto.

New Sec. 4. Nothing in this act shall be construed to prohibit a person with capacity to do so from making an application for admission as a

voluntary patient to a crisis intervention center. Any person desiring to do so shall be afforded an opportunity to consult with such person's attorney prior to making any such application. If the head of the crisis intervention center accepts the application and admits the person as a voluntary patient, then the head of the crisis intervention center shall notify, in writing, the person's legal guardian, if known.

New Sec. 5. Any law enforcement officer who takes a person into custody pursuant to K.S.A. 59-2953 or 59-29b53, and amendments thereto, may transport such person to a crisis intervention center if the officer is in a crisis intervention center service area. The crisis intervention center shall not refuse to accept any person for evaluation if such person is brought to the crisis intervention center by a law enforcement officer and such officer's jurisdiction is in the crisis intervention center's service area. If a law enforcement officer is not in a crisis intervention center service area or chooses not to transport the person to a crisis intervention center, then the officer shall follow the procedures set forth in the care and treatment act for persons with an alcohol or substance abuse problem, K.S.A. 59-29b45 et seq., and amendments thereto.

New Sec. 6. (a) A crisis intervention center may admit and detain any person 18 years of age or older who is presented for emergency observation and treatment upon the written application of a law enforcement officer.

(b) An emergency observation and treatment application shall be made on a form set forth by the secretary for aging and disability services or a locally developed form approved by the secretary. The original application shall be kept in the regular course of business with the law enforcement agency, and a copy shall be provided to the crisis intervention center and to the patient. 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, domestic partner or nearest relative, if known;

(3) the applicant's belief that the person may be a mentally ill person subject to involuntary commitment as defined in K.S.A. 59-2946, and amendments thereto, a person with an alcohol or substance abuse problem subject to involuntary commitment as defined in K.S.A. 59-29b46, and amendments thereto, or a person with co-occurring conditions, and because of such mental illness, alcohol or substance abuse problem or co-occurring conditions, 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) whether the person has a wellness recovery action plan or psychiatric advance directive, if known.

New Sec. 7. (a) A crisis intervention center may evaluate, admit and detain any person 18 years of age or older who is presented for emergency observation and treatment upon the written application of any adult.

(b) An emergency observation and treatment application shall be made on a form set forth by the secretary for aging and disability services or a locally developed form approved by the secretary. The original application shall be kept by the applicant, and a copy shall be provided to the crisis intervention center and to the patient. 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, domestic partner or nearest relative, if known;

(3) the applicant's belief that the person may be a mentally ill person subject to involuntary commitment as defined in K.S.A. 59-2956, and amendments thereto, a person with an alcohol or substance abuse problem subject to involuntary commitment as defined in K.S.A. 59-29b46, and amendments thereto, or a person with co-occurring conditions, and because of such mental illness, alcohol or substance abuse problem or co-occurring conditions, 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 presented to the crisis intervention center;

(5) any known pending criminal charges;

(6) any known prior psychiatric, medical or substance use history; and

(7) whether the person has a wellness recovery action plan or psychiatric advance directive, if known.

New Sec. 8. (a) The head of the crisis intervention center shall evaluate a person admitted pursuant to this act within four hours of admission to determine whether the person is likely to be a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, a person with an alcohol and substance abuse problem subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-29b46, and amendments thereto, or a person with co-occurring conditions, and because of such mental illness, alcohol or substance abuse problem or co-occurring conditions, is likely to cause harm to self or others if allowed to remain at liberty. The head of the crisis intervention center shall inquire whether the person has a wellness recovery action plan or psychiatric advance directive.

(b) A behavioral health professional shall evaluate a person admitted pursuant to this act not later than 23 hours after admission and again not



later than 48 hours after admission to determine if the person continues to meet the criteria described in subsection (a). The 23-hour evaluation must be performed by a different behavioral health professional from the one who conducted the initial evaluation under subsection (a).

(c) Not later than 48 hours after admission, if the head of the crisis intervention center determines that the person continues to meet the criteria described in subsection (a), then the head of the crisis intervention center shall file an affidavit to that effect for review by the district court in the county where the crisis intervention center is located. The affidavit shall include or be accompanied by the written application for emergency observation and treatment, information about the person's original admission to the crisis intervention center, the care and treatment provided to the person, and the factual circumstances in support of the evaluating professional's opinion that the person meets the criteria described in subsection (a). After reviewing the affidavit and any accompanying documentation, the court shall order the release of the person or order that the person may continue to be detained and treated at the crisis intervention center, subject to subsections (d) and (e).

(d) The head of the crisis intervention center shall discharge a person admitted pursuant to this act at any time the person no longer meets the criteria described in subsection (a) and, except as provided in subsection (e), not later than 72 hours after admission. Upon discharge, the crisis intervention center shall make reasonable accommodations for the person's transportation.

(e) Not later than 72 hours after admission, if the head of the crisis intervention center determines that a person admitted pursuant to this act continues to meet the criteria described in subsection (a), then the head of the crisis intervention center shall immediately file the petition provided for in K.S.A. 59-2957, and amendments thereto, or K.S.A. 59-29b57, and amendments thereto, and shall find appropriate placement for the individual, including, but not limited to, community hospitals equipped to take involuntary commitments or the designated state hospital. If the 72-hour period ends after 5 p.m., then the petition must be filed by the close of business of the first day thereafter that the district court is open for the transaction of business.

New Sec. 9. (a) Whenever any person is involuntarily admitted to or detained at a crisis intervention center pursuant to this act, the head of the crisis intervention center shall:

(1) Immediately advise the person in custody that such person is entitled to immediately contact the person's legal counsel, legal guardian, personal physician or psychologist, minister of religion, including a Christian Science practitioner, or immediate family as defined in subsection (b) or any combination thereof. If the person desires to make such con-

tact, the head of the crisis intervention center shall make available to the person reasonable means for making such immediate communication;

(2) provide notice of the person's involuntary admission including a copy of the documentation authorizing the involuntary admission to that person's attorney or legal guardian, immediately upon learning of the existence and whereabouts of such attorney or legal guardian, unless that attorney or legal guardian was the person who signed the application resulting in the patient's admission. If authorized by the patient pursuant to K.S.A. 65-5601 through 65-5605, and amendments thereto, the head of the crisis intervention center also shall provide notice to the patient's immediate family, as defined in subsection (b), immediately upon learning of the existence and whereabouts of such family, unless the family member to be notified was the person who signed the application resulting in the patient's admission; and

(3) immediately advise the person in custody of such person's rights provided for in section 14, and amendments thereto.

(b) "Immediate family" means the spouse, domestic partner, adult children or children, parent or parents, and sibling or siblings, or any combination thereof.

New Sec. 10. (a) Medications and other treatments shall be prescribed, ordered and administered only in conformity with accepted clinical practice. Medication shall be administered only upon the written order of a physician or upon a verbal order noted in the patient's medical records and subsequently signed by the physician. The attending physician shall review regularly the drug regimen of each patient under the physician's care and shall monitor any symptoms or harmful side effects. Prescriptions for psychotropic medications shall be written with a termination date not exceeding 30 days thereafter, but may be renewed.

(b) During the course of treatment, the responsible physician or psychologist or such person's designee shall reasonably consult with the patient or the patient's legal guardian and give consideration to the views the patient or legal guardian expresses concerning treatment and any alternatives, including views expressed in any wellness recovery action plan or psychiatric advance directive. No medication or other treatment may be administered to any voluntary patient without the patient's consent or the consent of such patient's legal guardian.

(c) Consent for medical or surgical treatments not intended primarily to treat a patient's mental disorder shall be obtained in accordance with applicable law.

(d) Whenever a patient receiving treatment pursuant to this act objects to taking any medication prescribed for psychiatric treatment, and after full explanation of the benefits and risks of such medication such objection continues, the medication may be administered over the pa-

tient's objection. Such objection shall be recorded in the patient's medical record.

(e) In no case shall experimental medication be administered without the patient's consent, which consent shall be obtained in accordance with section 12(a)(6), and amendments thereto.

New Sec. 11. (a) Restraints or seclusion shall not be applied to a patient unless it is determined by the head of the crisis intervention center or a physician or psychologist to be necessary to prevent immediate substantial bodily injury to the patient or others and that other alternative methods to prevent such injury are not sufficient to accomplish this purpose. Restraints or seclusion shall never be used as a punishment or for the convenience of staff. The extent of the restraints or seclusion applied to the patient shall be the least restrictive measure necessary to prevent such injury to the patient or others, and the use of restraint or seclusion in a crisis intervention center shall not exceed three hours without medical reevaluation, except that such medical reevaluation shall not be required, unless necessary, between the hours of 12:00 midnight and 8:00 a.m. When restraints or seclusion are applied, there shall be monitoring of the patient's condition at a frequency determined by the treating physician or psychologist, which shall be no less than once per each 15 minutes. The head of the crisis intervention center or a physician or psychologist shall sign a statement explaining the treatment necessity for the use of any restraint or seclusion and shall make such statement a part of the permanent treatment record of the patient.

(b) The provisions of subsection (a) shall not prevent, for a period not exceeding two hours without review and approval thereof by the head of the crisis intervention center or a physician or psychologist:

(1) The use of such restraints as necessary for a patient who is likely to cause physical injury to self or others without the use of such restraints;

(2) the use of restraints when needed primarily for examination or treatment or to ensure the healing process; or

(3) the use of seclusion as part of a treatment methodology that calls for time out when the patient is refusing to participate in treatment or has become disruptive of a treatment process.

(c) As used in this section:

(1) "Restraints" means the application of any device, other than human force alone, to any part of the body of the patient for the purpose of preventing the patient from causing injury to self or others; and

(2) "seclusion" means the placement of a patient, alone, in a room, where the patient's freedom to leave is restricted and where the patient is not under continuous observation.

New Sec. 12. (a) Every patient being treated in any crisis intervention center, in addition to all other rights preserved by the provisions of the crisis intervention act, shall have the following rights:

(1) To wear the patient's own clothes, keep and use the patient's own personal possessions, including toilet articles, and keep and be allowed to spend the patient's own money;

(2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls and by letter, both to mail and receive unopened correspondence, except that if the head of the crisis intervention center denies a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

(3) conjugal visits, if facilities are available for such visits;

(4) to receive visitors in reasonable numbers and at reasonable times each day;

(5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed to prohibit a patient from performing labor as part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient;

(7) to have explained the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatment ordered;

(8) to communicate by letter with the secretary for aging and disability services, the head of the crisis intervention center and any court, attorney, physician, psychologist, qualified mental health professional, licensed addiction counselor or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

(9) to contact and consult privately with the patient's physician, psychologist, qualified mental health professional, licensed addiction counselor, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time;

(10) to be visited by the patient's physician, psychologist, qualified mental health professional, licensed addiction counselor, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time;

(11) to be informed orally and in writing of such patient's rights under this section upon admission to a crisis intervention center; and

(12) to be treated humanely, consistent with generally accepted ethics and practices.

(b) The head of the crisis intervention center may, for good cause

only, restrict a patient's rights under this section, except that the rights enumerated in subsection (a)(5) through (12), and the right to mail any correspondence that does not violate postal regulations, shall not be restricted by the head of the crisis intervention center under any circumstances. Each crisis intervention center shall adopt policies governing the conduct of all patients being treated in such crisis intervention center, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely manner.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

New Sec. 13. Any district court records and any treatment records or medical records of any person who has been admitted to a crisis intervention center pursuant to this act that are in the possession of any district court or crisis intervention center treatment facility shall be privileged and shall be not disclosed except as provided under K.S.A. 59-2979, and amendments thereto.

New Sec. 14. Any person or law enforcement agency, governing body, crisis intervention center, community mental health center or personnel acting in good faith and without negligence shall be free from all liability, civil or criminal, that might arise out of acting or declining to act pursuant to the crisis intervention act. Any person who, for a corrupt consideration or advantage, or through malice, shall make or join in making or advise the making of any false petition, report or order provided for in the crisis intervention act, shall be guilty of a class A misdemeanor.

Sec. 15. K.S.A. 2016 Supp. 39-2001 is hereby amended to read as follows: 39-2001. 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, *crisis intervention 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. 16. K.S.A. 2016 Supp. 39-2002 is hereby amended to read as follows: 39-2002. 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 *or crisis intervention 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) “*Crisis intervention center*” means an entity that is open 24 hours a day, 365 days a year, equipped to serve voluntary and involuntary individuals in crisis due to mental illness, substance abuse or co-occurring conditions, and that uses certified specialists.

(d) “Department” means the department for aging and disability services.

~~(d)~~(e) “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)~~(f) “Hospital” means a psychiatric hospital.

~~(f)~~(g) “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)~~(h) “Licensee” means one or more persons or entities licensed by the secretary under this act.

~~(h)~~(i) “Licensing agency” means the secretary for aging and disability services.

~~(i)~~(j) “Other disabilities” means any condition for which individuals receive home and community based waiver services.

~~(j)~~(k) “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)~~(l) “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)~~(m) “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)~~(n) “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 administrator, 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)~~(o) “Secretary” means the secretary for aging and disability services.

~~(o)~~(p) “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. 17. K.S.A. 2016 Supp. 39-2003 is hereby amended to read as follows: 39-2003. (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, *crisis intervention 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, *crisis intervention 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, *crisis intervention 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. 18. K.S.A. 59-2953 is hereby amended to read as follows: 59-



2953. (a) Any law enforcement officer who has a reasonable belief formed upon investigation that a person is a mentally ill person and because of such person's mental illness is likely to cause harm to self or others if allowed to remain at liberty may take the person into custody without a warrant. *If the officer is in a crisis intervention center service area, as defined in section 2, and amendments thereto, the officer may transport the person to such crisis intervention center. If the officer is not in a crisis intervention service area, as defined in section 2, and amendments thereto, or does not choose to transport the person to such crisis intervention center, then the officer shall transport the person to a treatment facility where the person shall be examined by a physician or psychologist on duty at the treatment facility, except that no person shall be transported to a state psychiatric hospital for examination, unless a written statement from a qualified mental health professional authorizing such an evaluation at a state psychiatric hospital has been obtained. If no physician or psychologist is on duty at the time the person is transported to the treatment facility, the person shall be examined within a reasonable time not to exceed 17 hours. If a written statement is made by the physician or psychologist at the treatment facility that after preliminary examination the physician or psychologist believes the person likely to be a mentally ill person subject to involuntary commitment for care and treatment and because of the person's mental illness is likely to cause harm to self or others if allowed to remain at liberty, and if the treatment facility is willing to admit the person, the law enforcement officer shall present to the treatment facility the application provided for in ~~subsection (b) of K.S.A. 59-2954(b)~~, and amendments thereto. If the physician or psychologist on duty at the treatment facility does not believe the person likely to be a mentally ill person subject to involuntary commitment for care and treatment the law enforcement officer shall return the person to the place where the person was taken into custody and release the person at that place or at another place in the same community as requested by the person or if the law enforcement officer believes that it is not in the best interests of the person or the person's family or the general public for the person to be returned to the place the person was taken into custody, then the person shall be released at another place the law enforcement officer believes to be appropriate under the circumstances. The person may request to be released immediately after the examination, in which case the law enforcement officer shall immediately release the person, unless the law enforcement officer believes it is in the best interests of the person or the person's family or the general public that the person be taken elsewhere for release.*

(b) If the physician or psychologist on duty at the treatment facility states that, in the physician's or psychologist's opinion, the person is likely to be a mentally ill person subject to involuntary commitment for care and treatment but the treatment facility is unwilling to admit the person,

the treatment facility shall nevertheless provide a suitable place at which the person may be detained by the law enforcement officer. If a law enforcement officer detains a person pursuant to this subsection, the law enforcement officer shall file the petition provided for in ~~subsection (a) of K.S.A. 59-2957(a)~~, and amendments thereto, by the close of business of the first day that the district court is open for the transaction of business or shall release the person. No person shall be detained by a law enforcement officer pursuant to this subsection in a nonmedical facility used for the detention of persons charged with or convicted of a crime.

Sec. 19. K.S.A. 2016 Supp. 59-2978 is hereby amended to read as follows: 59-2978. (a) Every patient being treated in any treatment facility, in addition to all other rights preserved by the provisions of this act, shall have the following rights:

(1) To wear the patient's own clothes, keep and use the patient's own personal possessions including toilet articles and keep and be allowed to spend the patient's own money;

(2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls, and by letter, both to mail and receive unopened correspondence, except that if the head of the treatment facility should deny a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

(3) to conjugal visits if facilities are available for such visits;

(4) to receive visitors in reasonable numbers and at reasonable times each day;

(5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed so as to prohibit a patient from performing labor as a part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose;

(7) to have explained, the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatments ordered;

(8) to communicate by letter with the secretary for aging and disability services, the head of the treatment facility and any court, attorney,

physician, psychologist, *qualified mental health professional* or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

(9) to contact or consult privately with the patient's physician or psychologist, *qualified mental health professional* minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(10) to be visited by the patient's physician, psychologist, *qualified mental health professional*, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(11) to be informed orally and in writing of their rights under this section upon admission to a treatment facility; and

(12) to be treated humanely consistent with generally accepted ethics and practices.

(b) The head of the treatment facility may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsections (a)(5) through (a)(12), and the right to mail any correspondence which does not violate postal regulations, shall not be restricted by the head of the treatment facility under any circumstances. Each treatment facility shall adopt regulations governing the conduct of all patients being treated in such treatment facility, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient or to the parent, or legal guardian if such patient is a minor or has a legal guardian, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely fashion.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

(d) The provisions of this section do not apply to persons civilly committed to a treatment facility as a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

Sec. 20. K.S.A. 59-2980 is hereby amended to read as follows: 59-2980. Any person or law enforcement agency, governing body, community mental health center or personnel acting in good faith and without negligence shall be free from all liability, civil or criminal, ~~which~~ that might arise out of acting or declining to act pursuant to this act. Any person who for a corrupt consideration or advantage, or through malice, shall make

or join in making or advise the making of any false petition, report or order provided for in this act shall be guilty of a class A misdemeanor.

Sec. 21. K.S.A. 59-29b53 is hereby amended to read as follows: 59-29b53. (a) Any law enforcement officer who has a reasonable belief formed upon investigation that a 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 allowed to remain at liberty may take the person into custody without a warrant. *If the officer is in a crisis intervention center service area, as defined in section 2, and amendments thereto, the officer may transport the person to such crisis intervention center. If the officer is not in a crisis intervention center service area, as defined in section 2, and amendments thereto, or does not choose to transport the person to such crisis intervention center, then the officer shall transport the person to a treatment facility or other facility for care or treatment where the person shall be examined by a physician or psychologist on duty at the facility. If no physician or psychologist is on duty at the time the person is transported to the facility, the person shall be examined within a reasonable time not to exceed 17 hours. If a written statement is made by the physician or psychologist at the facility that after preliminary examination the physician or psychologist believes the person likely to 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 allowed to remain at liberty, and if the facility is a treatment facility and is willing to admit the person, the law enforcement officer shall present to that treatment facility the application provided for in ~~subsection (b) of~~ K.S.A. 59-29b54(b), and amendments thereto. If the physician or psychologist on duty at the facility does not believe the person likely to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment, the law enforcement officer shall return the person to the place where the person was taken into custody and release the person at that place or at another place in the same community as requested by the person or if the law enforcement officer believes that it is not in the best interests of the person or the person's family or the general public for the person to be returned to the place the person was taken into custody, then the person shall be released at another place the law enforcement officer believes to be appropriate under the circumstances. The person may request to be released immediately after the examination, in which case the law enforcement officer shall immediately release the person, unless the law enforcement officer believes it is in the best interests of the person or the person's family or the general public that the person be taken elsewhere for release.*

(b) If the physician or psychologist on duty at the facility states that, in the physician's or psychologist's opinion, the person is likely to be a

person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment but the facility is unwilling or is an inappropriate place to which to admit the person, the facility shall nevertheless provide a suitable place at which the person may be detained by the law enforcement officer. If a law enforcement officer detains a person pursuant to this subsection, the law enforcement officer shall file the petition provided for in ~~subsection (a) of~~ K.S.A. 59-29b57(a), and amendments thereto, by the close of business of the first day that the district court is open for the transaction of business or shall release the person. No person shall be detained by a law enforcement officer pursuant to this subsection in a nonmedical facility used for the detention of persons charged with or convicted of a crime unless no other suitable facility at which such person may be detained is willing to accept the person.

Sec. 22. K.S.A. 2016 Supp. 59-29b78 is hereby amended to read as follows: 59-29b78. (a) Every patient being treated in any treatment facility, in addition to all other rights preserved by the provisions of this act, shall have the following rights:

(1) To wear the patient's own clothes, keep and use the patient's own personal possessions including toilet articles and keep and be allowed to spend the patient's own money;

(2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls, and by letter, both to mail and receive unopened correspondence, except that if the head of the treatment facility should deny a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

(3) to conjugal visits if facilities are available for such visits;

(4) to receive visitors in reasonable numbers and at reasonable times each day;

(5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed so as to prohibit a patient from performing labor as a part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose;

(7) to have explained, the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatments ordered;

(8) to communicate by letter with the secretary for aging and disability services, the head of the treatment facility and any court, attorney, physician, psychologist, *licensed addiction counselor* or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

(9) to contact or consult privately with the patient's physician or psychologist, *licensed addiction counselor*, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(10) to be visited by the patient's physician, psychologist, *licensed addiction counselor*, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(11) to be informed orally and in writing of their rights under this section upon admission to a treatment facility; and

(12) to be treated humanely consistent with generally accepted ethics and practices.

(b) The head of the treatment facility may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsections (a)(5) through (a)(12), and the right to mail any correspondence which does not violate postal regulations, shall not be restricted by the head of the treatment facility under any circumstances. Each treatment facility shall adopt regulations governing the conduct of all patients being treated in such treatment facility, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient or to the parent, or legal guardian if such patient is a minor or has a legal guardian, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely fashion.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

Sec. 23. K.S.A. 59-29b80 is hereby amended to read as follows: 59-29b80. Any person *or law enforcement agency, governing body, community mental health center or personnel* acting in good faith and without negligence shall be free from all liability, civil or criminal, ~~which that~~

might arise out of acting *or declining to act* pursuant to this act. Any person who for a corrupt consideration or advantage, or through malice, shall make or join in making or advise the making of any false petition, report or order provided for in this act shall be guilty of a class A misdemeanor.

Sec. 24. K.S.A. 59-2953, 59-2980, 59-29b53 and 59-29b80 and K.S.A. 2016 Supp. 39-2001, 39-2002, 39-2003, 59-2978 and 59-29b78 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 24, 2017.

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CHAPTER 78

House Substitute for SENATE BILL No. 40  
(Amended by Chapter 100)

AN ACT concerning human trafficking and related crimes; creating the crimes of unlawful use of communication facility, promoting travel for child exploitation, internet trading in child pornography and aggravated internet trading in child pornography; relating to training for commercial driver’s license applicants; sexual exploitation of a child; buying sexual relations; commercial sexual exploitation of a child; offender registration; expungement of juvenile adjudications; victim compensation; amending K.S.A. 2016 Supp. 12-4120, 21-5301, 21-5302, 21-5303, 21-5401, 21-5426, 21-5502, 21-5510, 21-6421, 21-6422, 21-6614, 21-6626, 21-6627, 21-6806, 22-3601, 22-3717, 22-4902, 22-4906, 38-2312, 74-7305 and 75-759 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 21-6614g and 21-6614h.

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

New Section 1. (a) It shall be unlawful for any person to knowingly or intentionally use any communication facility:

(1) In committing, causing, or facilitating the commission of any felony under K.S.A. 2016 Supp. 21-5426, 21-6422 or 21-6420, and amendments thereto;

(2) in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony under K.S.A. 2016 Supp. 21-5426, 21-6422 or 21-6420, and amendments thereto; or

(3) in committing, causing, or facilitating the commission of any felony or misdemeanor under K.S.A. 2016 Supp. 21-6421, and amendments thereto, or in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony or misdemeanor under K.S.A. 2016 Supp. 21-6421, and amendments thereto.

Each separate use of a communication facility may be charged as a separate offense under this subsection.

(b) (1) Violation of subsection (a)(1) or (a)(2) is a severity level 7, person felony.

(2) Violation of subsection (a)(3) is a class A person misdemeanor.

(c) As used in this section, “communication facility” means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers and all other means of communication.

(d) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2016 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2016 Supp. 21-6422, and amendments thereto.

(e) This section shall be part of and supplemental to the Kansas criminal code.

New Sec. 2. (a) Promoting travel for child exploitation is knowingly selling or offering to sell travel services that include or facilitate travel for the purpose of any person engaging in conduct that would constitute a violation of K.S.A. 2016 Supp. 21-5426(b)(4) or (5), 21-5510, section 3 or 21-6422, and amendments thereto, if such conduct occurred in this state.

(b) Promoting travel for child exploitation is a severity level 5, person felony.

(c) As used in this section, “travel services” means transportation by air, sea or ground, hotel or any lodging accommodations, package tours, or vouchers or coupons to be redeemed for future travel or accommodations for a fee, commission or other valuable consideration.

(d) This section shall be part of and supplemental to the Kansas criminal code.

New Sec. 3. (a) Except as provided in K.S.A. 2016 Supp. 21-5610 and 21-5611, and amendments thereto, internet trading in child pornography is sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-5510(a)(2), and amendments thereto, when the offender is 18 years of age or older, and the offender knowingly causes or permits the visual depiction to be viewed, by use of any electronic device connected to the internet, by any person other than the offender or a person depicted in the visual depiction.

(b) Except as provided in K.S.A. 2016 Supp. 21-5610 and 21-5611, and amendments thereto, aggravated internet trading in child pornography is sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-5510(a)(1) or (4), and amendments thereto, when the offender is 18 years of age or older and the offender knowingly causes or permits the performance to be viewed, by use of any electronic device connected to the internet, by any person other than the offender or a person depicted in the performance.



(c) (1) Internet trading in child pornography is a severity level 5, person felony.

(2) Aggravated internet trading in child pornography is a severity level 3, person felony, except as provided in subsection (c)(3).

(3) Aggravated internet trading in child pornography or attempt, conspiracy or criminal solicitation to commit aggravated internet trading in child pornography is an off-grid person felony when the child is under 14 years of age.

(d) If the child is under 14 years of age, the provisions of:

(1) K.S.A. 2016 Supp. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated internet trading in child pornography pursuant to this section;

(2) K.S.A. 2016 Supp. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated internet trading in child pornography pursuant to this section; and

(3) K.S.A. 2016 Supp. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated internet trading in child pornography pursuant to this section.

(e) In addition to the venue provided for under any other provision of law, a prosecution for internet trading in child pornography or aggravated internet trading in child pornography may be brought in the county where the visual depiction or performance may be viewed by any person other than the offender using any electronic device connected to the internet and is viewed by a law enforcement officer using an electronic device connected to the internet while engaged in such officer's official duties.

(f) As used in this section, "the internet" has the meaning as provided in K.S.A. 66-2011, and amendments thereto.

(g) This section shall be part of and supplemental to the Kansas criminal code.

New Sec. 4. On and after July 1, 2018, an applicant for issuance or renewal of a commercial driver's license, prior to such issuance or renewal, shall complete training approved by the attorney general in human trafficking identification and prevention and provide satisfactory proof of such completion to the division of vehicles of the department of revenue prior to such issuance or renewal. Not later than January 1, 2019, the attorney general shall, in consultation with the director of vehicles, promulgate rules and regulations to implement the provisions of this section.

Sec. 5. K.S.A. 2016 Supp. 12-4120 is hereby amended to read as follows: 12-4120. (a) On and after July 1, 2012, the amount of \$250 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2016 Supp. 8-1025, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of

K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 2016 Supp. 75-52,113, and amendments thereto.

(b) ~~On and after July 1, 2013, the amount of \$2,500 from One-half~~ of each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 2016 Supp. 21-6421, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, *and the remainder shall be remitted as otherwise provided by law.* Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the human trafficking victim assistance fund established by K.S.A. 2016 Supp. 75-758, and amendments thereto.

Sec. 6. K.S.A. 2016 Supp. 21-5301 is hereby amended to read as follows: 21-5301. (a) An attempt is any overt act toward the perpetration of a crime done by a person who intends to commit such crime but fails in the perpetration thereof or is prevented or intercepted in executing such crime.

(b) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed or the means employed or the act itself were such that the commission of the crime was not possible.

(c) (1) An attempt to commit an off-grid felony shall be ranked at nondrug severity level 1. An attempt to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for an attempt to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of attempting to commit the crime of:

(A) Aggravated human trafficking, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2016 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2016 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in ~~subsection (a)(3) of~~ K.S.A. 2016 Supp. 21-5503(a)(3), and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in ~~subsection (b)(3) of~~ K.S.A. 2016 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in ~~subsection (b)(1) of~~

~~(b)(2)~~ of K.S.A. 2016 Supp. 21-5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of age or older;

(G) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(H) sexual exploitation of a child, as defined in ~~subsection (a)(1) or (a)(4)~~ of K.S.A. 2016 Supp. 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; ~~or~~

(I) *aggravated internet trading in child pornography, as defined in section 3(b), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or*

(J) capital murder, as defined in K.S.A. 2016 Supp. 21-5401, and amendments thereto.

(d) (1) An attempt to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

(2) The provisions of this subsection shall not apply to a violation of attempting to commit a violation of K.S.A. 2016 Supp. 21-5703, and amendments thereto.

(e) An attempt to commit a class A person misdemeanor is a class B person misdemeanor. An attempt to commit a class A nonperson misdemeanor is a class B nonperson misdemeanor.

(f) An attempt to commit a class B or C misdemeanor is a class C misdemeanor.

Sec. 7. K.S.A. 2016 Supp. 21-5302 is hereby amended to read as follows: 21-5302. (a) A conspiracy is an agreement with another person to commit a crime or to assist in committing a crime. No person may be convicted of a conspiracy unless an overt act in furtherance of such conspiracy is alleged and proved to have been committed by such person or by a co-conspirator.

(b) It is immaterial to the criminal liability of a person charged with conspiracy that any other person with whom the defendant conspired lacked the actual intent to commit the underlying crime provided that the defendant believed the other person did have the actual intent to commit the underlying crime.

(c) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy, and communicated the fact of such withdrawal to one or more of the accused person's co-conspirators, before any overt act in furtherance of the conspiracy was committed by the accused or by a co-conspirator.

(d) (1) Conspiracy to commit an off-grid felony shall be ranked at nondrug severity level 2. Conspiracy to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the

appropriate level for the underlying or completed crime. The lowest severity level for conspiracy to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of conspiracy to commit the crime of:

(A) Aggravated human trafficking, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2016 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2016 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in ~~subsection (a)(3) of~~ K.S.A. 2016 Supp. 21-5503(a)(3), and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in ~~subsection (b)(3) of~~ K.S.A. 2016 Supp. 21-5506(b)(3), and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in ~~subsection (b)(1) or (b)(2) of~~ K.S.A. 2016 Supp. 21-5504(b)(1) or (2), and amendments thereto, if the offender is 18 years of age or older;

(G) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(H) sexual exploitation of a child, as defined in ~~subsection (a)(1) or (a)(4) of~~ K.S.A. 2016 Supp. 21-5510(a)(1) or (4), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; ~~or~~

(I) *aggravated internet trading in child pornography, as defined in section 3(b), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or*

(J) violations of the Kansas racketeer influenced and corrupt organization act, as described in K.S.A. 2016 Supp. 21-6329, and amendments thereto.

(e) Conspiracy to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

(f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

Sec. 8. K.S.A. 2016 Supp. 21-5303 is hereby amended to read as follows: 21-5303. (a) Criminal solicitation is commanding, encouraging or requesting another person to commit a felony, attempt to commit a felony or aid and abet in the commission or attempted commission of a felony for the purpose of promoting or facilitating the felony.

(b) It is immaterial under subsection (a) that the actor fails to com-

municate with the person solicited to commit a felony if the person's conduct was designed to effect a communication.

(c) It is an affirmative defense that the actor, after soliciting another person to commit a felony, persuaded that person not to do so or otherwise prevented the commission of the felony, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purposes.

(d) (1) Criminal solicitation to commit an off-grid felony shall be ranked at nondrug severity level 3. Criminal solicitation to commit any other nondrug felony shall be ranked on the nondrug scale at three severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for criminal solicitation to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of criminal solicitation to commit the crime of:

(A) Aggravated human trafficking, as defined in ~~subsection (b) of K.S.A. 2016 Supp. 21-5426(b)~~, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2016 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2016 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in ~~subsection (a)(3) of K.S.A. 2016 Supp. 21-5503(a)(3)~~, and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in ~~subsection (b)(3) of K.S.A. 2016 Supp. 21-5506(b)(3)~~, and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in ~~subsection (b)(1) or (b)(2) of K.S.A. 2016 Supp. 21-5504(b)(1) or (2)~~, and amendments thereto, if the offender is 18 years of age or older;

(G) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age; ~~or~~

(H) sexual exploitation of a child, as defined in ~~subsection (a)(1) or (a)(4) of K.S.A. 2016 Supp. 21-5510(a)(1) or (4)~~, and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; ~~or~~

(I) *aggravated internet trading in child pornography, as defined in section 3(b), and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age.*

(e) Criminal solicitation to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

Sec. 9. K.S.A. 2016 Supp. 21-5401 is hereby amended to read as follows: 21-5401. (a) Capital murder is the:

(1) Intentional and premeditated killing of any person in the commission of kidnapping, as defined in ~~subsection (a) of K.S.A. 2016 Supp. 21-5408(a)~~, and amendments thereto, or aggravated kidnapping, as defined in ~~subsection (b) of K.S.A. 2016 Supp. 21-5408(b)~~, and amendments thereto, when the kidnapping or aggravated kidnapping was committed with the intent to hold such person for ransom;

(2) intentional and premeditated killing of any person pursuant to a contract or agreement to kill such person or being a party to the contract or agreement pursuant to which such person is killed;

(3) intentional and premeditated killing of any person by an inmate or prisoner confined in a state correctional institution, community correctional institution or jail or while in the custody of an officer or employee of a state correctional institution, community correctional institution or jail;

(4) intentional and premeditated killing of the victim of one of the following crimes in the commission of, or subsequent to, such crime: Rape, as defined in K.S.A. 2016 Supp. 21-5503, and amendments thereto, criminal sodomy, as defined in ~~subsections (a)(3) or (a)(4) of K.S.A. 2016 Supp. 21-5504(a)(3) or (4)~~, and amendments thereto, or aggravated criminal sodomy, as defined in ~~subsection (b) of K.S.A. 2016 Supp. 21-5504(b)~~, and amendments thereto, or any attempt thereof, as defined in K.S.A. 2016 Supp. 21-5301, and amendments thereto;

(5) intentional and premeditated killing of a law enforcement officer;

(6) intentional and premeditated killing of more than one person as a 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; or

(7) intentional and premeditated killing of a child under the age of 14 in the commission of kidnapping, as defined in ~~subsection (a) of K.S.A. 2016 Supp. 21-5408(a)~~, and amendments thereto, or aggravated kidnapping, as defined in ~~subsection (b) of K.S.A. 2016 Supp. 21-5408(b)~~, and amendments thereto, when the kidnapping or aggravated kidnapping was committed with intent to commit a sex offense upon or with the child or with intent that the child commit or submit to a sex offense.

(b) For purposes of this section, “sex offense” means: Rape, as defined in K.S.A. 2016 Supp. 21-5503, and amendments thereto; aggravated indecent liberties with a child, as defined in ~~subsection (b) of K.S.A. 2016 Supp. 21-5506(b)~~, and amendments thereto; aggravated criminal sodomy, as defined in ~~subsection (b) of K.S.A. 2016 Supp. 21-5504(b)~~, and amendments thereto; selling sexual relations, as defined in K.S.A. 2016 Supp. 21-6419, and amendments thereto; promoting the sale of sexual relations, as defined in K.S.A. 2016 Supp. 21-6420, and amendments thereto; commercial sexual exploitation of a child, as defined in

K.S.A. 2016 Supp. 21-6422, and amendments thereto; or sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-5510, and amendments thereto; *internet trading in child pornography, as defined in section 3(a), and amendments thereto; aggravated internet trading in child pornography, as defined in section 3(b), and amendments thereto; or aggravated human trafficking, as defined in K.S.A. 2016 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.*

(c) Capital murder or attempt to commit capital murder is an off-grid person felony.

(d) The provisions of ~~subsection (c)~~ of K.S.A. 2016 Supp. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of capital murder pursuant to this section.

Sec. 10. K.S.A. 2016 Supp. 21-5426 is hereby amended to read as follows: 21-5426. (a) Human trafficking is:

(1) *Except as provided in subsection (b)(4) and (5), the intentional recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjecting the person to involuntary servitude or forced labor;*

(2) intentionally benefitting financially or by receiving anything of value from participation in a venture that the person has reason to know has engaged in acts set forth in subsection (a)(1);

(3) knowingly coercing employment by obtaining or maintaining labor or services that are performed or provided by another person through any of the following:

(A) Causing or threatening to cause physical injury to any person;

(B) physically restraining or threatening to physically restrain another person;

(C) abusing or threatening to abuse the law or legal process;

(D) threatening to withhold food, lodging or clothing; or

(E) knowingly destroying, concealing, removing, confiscating or possessing any actual or purported government identification document of another person; or

(4) knowingly holding another person in a condition of peonage in satisfaction of a debt owed the person who is holding such other person.

(b) Aggravated human trafficking is ~~human trafficking, as defined in subsection (a):~~

(1) *Human trafficking, as defined in subsection (a), involving the commission or attempted commission of kidnapping, as defined in ~~subsection (a)~~ of K.S.A. 2016 Supp. 21-5408(a), and amendments thereto;*

(2) *human trafficking, as defined in subsection (a), committed in whole or in part for the purpose of the sexual gratification of the defendant or another;*

(3) *human trafficking, as defined in subsection (a), resulting in a death;*~~or~~

(4) ~~involving~~ recruiting, harboring, transporting, providing or obtaining, by any means, a ~~person under 18 years of age~~ *child* knowing that the ~~person~~ *child*, with or without force, fraud, threat or coercion, will be used to engage in: (A) Forced labor;; (B) involuntary servitude; or (C) sexual gratification of the defendant or another *involving the exchange of anything of value; or*

(5) *hiring a child by giving, or offering or agreeing to give, anything of value to any person, to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act, and the offender recklessly disregards the age of the child.*

(c) (1) Human trafficking is a severity level 2, person felony.

(2) Aggravated human trafficking is a severity level 1, person felony, except as provided in subsection (c)(3).

(3) Aggravated human trafficking or attempt, conspiracy or criminal solicitation to commit aggravated human trafficking is an off-grid person felony, when the offender is 18 years of age or older and the victim is less than 14 years of age.

(4) *In addition to any other sentence imposed, a person convicted under subsection (c)(1) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (c)(2) or (c)(3) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-758, and amendments thereto.*

(5) *In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.*

(d) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) ~~Subsection (c) of~~ K.S.A. 2016 Supp. 21-5301(c), and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated human trafficking pursuant to this section;

(2) ~~subsection (c) of~~ K.S.A. 2016 Supp. 21-5302(d), and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated human trafficking pursuant to this section; and

(3) ~~subsection (d) of~~ K.S.A. 2016 Supp. 21-5303(d), and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated human trafficking pursuant to this section.

(e) *It shall be an affirmative defense to any prosecution under subsection (b)(4) or (5) that the defendant: (1) Was under 18 years of age at*



the time of the violation; and (2) committed the violation because such defendant, at the time of the violation, was subjected to human trafficking or aggravated human trafficking, as defined by this section.

(f) It shall not be a defense to a charge of aggravated human trafficking, as defined in subsection (b)(4) or (5), that: (1) The victim consented or willingly participated in the forced labor, involuntary servitude or sexual gratification of the defendant or another; or (2) the offender had no knowledge of the age of the victim.

(g) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for commercial sexual exploitation of a child, as defined by K.S.A. 2016 Supp. 21-6422, and amendments thereto, or for any form of homicide.

(h) The provisions of this section shall not apply to the use of the labor of any person incarcerated in a state or county correctional facility or city jail.

~~(f)(i)~~ As used in this section:-

(1) "Child" means a person under 18 years of age; and

(2) "peonage" means a condition of involuntary servitude in which the victim is forced to work for another person by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process.

Sec. 11. K.S.A. 2016 Supp. 21-5502 is hereby amended to read as follows: 21-5502. (a) The provisions of this section shall apply only in a prosecution for:

(1) Rape, as defined in K.S.A. 2016 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child, as defined in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in ~~subsections (a)(3) and (a)(4) of~~ K.S.A. 2016 Supp. 21-5504(a)(3) and (4), and amendments thereto;

(5) aggravated criminal sodomy, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

(6) aggravated indecent solicitation of a child, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5508(b), and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-5510, and amendments thereto;

(8) aggravated sexual battery, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

(9) incest, as defined in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5604(a), and amendments thereto;

(10) aggravated incest, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

(11) indecent solicitation of a child, as defined in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;

(12) aggravated assault, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5412(b), and amendments thereto, with intent to commit any crime specified above;

(13) sexual battery, as defined in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5505(a), and amendments thereto;

(14) unlawful voluntary sexual relations, as defined in K.S.A. 2016 Supp. 21-5507, and amendments thereto;

(15) aggravated human trafficking, as defined in ~~subsections (b)(2) and (b)(4) of~~ K.S.A. 2016 Supp. 21-5426(b)(2), (4) and (5), and amendments thereto;

(16) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto;

(17) electronic solicitation, as defined in K.S.A. 2016 Supp. 21-5509, and amendments thereto; ~~or~~

(18) *internet trading in child pornography, as defined in section 3(a), and amendments thereto;*

(19) *aggravated internet trading in child pornography, as defined in section 3(b), and amendments thereto; or*

(20) attempt, as defined in K.S.A. 2016 Supp. 21-5301, and amendments thereto, or conspiracy, as defined in K.S.A. 2016 Supp. 21-5302, and amendments thereto, to commit any crime specified above.

(b) Except as provided in subsection (c), in any prosecution to which this section applies, evidence of the complaining witness' previous sexual conduct with any person including the defendant shall not be admissible, and no reference shall be made thereto in any proceeding before the court, except under the following conditions: The defendant shall make a written motion to the court to admit evidence or testimony concerning the previous sexual conduct of the complaining witness. The motion shall be made at least seven days before the commencement of the proceeding unless that requirement is waived by the court. The motion shall state the nature of such evidence or testimony and its relevancy and shall be accompanied by an affidavit in which an offer of proof of the previous sexual conduct of the complaining witness is stated. The motion, affidavits and any supporting or responding documents of the motion shall not be made available for examination without a written order of the court except that such motion, affidavits and supporting and responding documents or testimony when requested shall be made available to the defendant or the defendant's counsel and to the prosecutor. The defendant, defendant's counsel and prosecutor shall be prohibited from disclosing any matters relating to the motion, affidavits and any supporting or responding documents of the motion. The court shall conduct a hearing on the motion in camera. At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the previous

sexual conduct of the complaining witness is relevant and is not otherwise inadmissible as evidence, the court may make an order stating what evidence may be introduced by the defendant and the nature of the questions to be permitted. The defendant may then offer evidence and question witnesses in accordance with the order of the court.

(c) In any prosecution for a crime designated in subsection (a), the prosecutor may introduce evidence concerning any previous sexual conduct of the complaining witness, and the complaining witness may testify as to any such previous sexual conduct. If such evidence or testimony is introduced, the defendant may cross-examine the witness who gives such testimony and offer relevant evidence limited specifically to the rebuttal of such evidence or testimony introduced by the prosecutor or given by the complaining witness.

(d) As used in this section, “complaining witness” means the alleged victim of any crime designated in subsection (a), the prosecution of which is subject to this section.

Sec. 12. K.S.A. 2016 Supp. 21-5510 is hereby amended to read as follows: 21-5510. (a) Except as provided in K.S.A. 2016 Supp. 21-5610 and 21-5611, 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~~ 3, 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) K.S.A. 2016 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) K.S.A. 2016 Supp. 21-5302~~(c)~~(d), 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) K.S.A. 2016 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 any other person;

(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, digital 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. 13. K.S.A. 2016 Supp. 21-6421 is hereby amended to read as follows: 21-6421. (a) Buying sexual relations is knowingly:

(1) Entering or remaining in a place where sexual relations are being

sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or

(2) hiring a person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act.

(b) (1) Buying sexual relations is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and

(B) severity level 9, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.

(2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined \$2,500. ~~In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) this section shall be fined not less than \$1,200 nor more than \$5,000. One-half of all fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-758, and amendments thereto, and the remainder shall be remitted as otherwise provided by law.~~

(3) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation.

(c) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of this section, or any prior version of this section, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account; and

(2) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance which prohibits the acts of this section only once during the person's lifetime.

(d) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this

section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

Sec. 14. K.S.A. 2016 Supp. 21-6422 is hereby amended to read as follows: 21-6422. (a) Commercial sexual exploitation of a child is knowingly:

(1) ~~Giving, receiving, offering or agreeing to give, or offering or agreeing to receive anything of value to perform any of the following acts:~~

~~(A) Procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, or~~

~~(B) procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining a patron where there is an exchange of value, for any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the patron, the offender or another;~~

~~(2) Hiring a person younger than 18 years of age by giving, or offering or agreeing to give, anything of value to any person, to engage in a manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act;~~

(2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof; or

(3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age; or

~~(4) procuring transportation for, paying for the transportation of or transporting any person younger than 18 years of age within this state with the intent of causing, assisting or promoting that person's engaging in selling sexual relations.~~

(b) (1) Commercial sexual exploitation of a child is a:

(A) Severity level ~~5~~ 4, person felony, except as provided in subsections (b)(1)(B) and (b)(2); and

(B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).

(2) Commercial sexual exploitation of a child or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child

is an off-grid person felony when the offender is 18 years of age or older and the victim is less than 14 years of age.

(3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or ~~subsection (b)(2)~~ shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by K.S.A. 2016 Supp. 75-758, and amendments thereto.

(4) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation of a child.

(c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) ~~Subsection (c) of K.S.A. 2016 Supp. 21-5301(c)~~, and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;

(2) ~~subsection (e) of K.S.A. 2016 Supp. 21-5302(d)~~, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and

(3) ~~subsection (d) of K.S.A. 2016 Supp. 21-5303(d)~~, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.

~~(d) This section shall be part of and supplemental to the Kansas criminal code.~~

Sec. 15. K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 Supp. 21-5510, and amendments thereto;

(7) *internet trading in child pornography or aggravated internet trading in child pornography, as defined in section 3, and amendments thereto;*

(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604, and amendments thereto;

~~(8)~~(9) 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. 2016 Supp. 21-5601, and amendments thereto;

~~(9)~~(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2016 Supp. 21-5602, and amendments thereto;

~~(10)~~(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments thereto;

~~(11)~~(12) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto;

~~(12)~~(13) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto;

~~(13)~~(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;

~~(14)~~(15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2016 Supp. 21-5405, and amendments thereto;

~~(15)~~(16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2016 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

~~(16)~~(17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2016 Supp. 21-5505, and amendments thereto;

~~(17)~~(18) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or

~~(18)~~(19) 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, 2015, through 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. 2016 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. 2016 Supp. 75-7c01 et seq., and amendments thereto; *or*

(L) *for applications received on and after July 1, 2016, to aid in determining the petitioner's qualifications for a license to act as a bail en-*

*forcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, 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. 2016 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 employ-

ment 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 represen-

tative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to:

(A) Carry a concealed weapon pursuant to the personal and family protection act; *or*

(B) *act as a bail enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, and amendments thereto; or*

(17) the Kansas bureau of investigation for the purposes of:

(A) Completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto; *or*

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(m) The provisions of subsection (l)(17) shall apply to records created prior to, on and after July 1, 2011.

Sec. 16. K.S.A. 2016 Supp. 21-6626 is hereby amended to read as follows: 21-6626. (a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender's natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for commutation of sentence, parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, functional incapacitation release pursuant to K.S.A. 22-3728, and amendments thereto, or suspension, modification or reduction of sentence.

(b) Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the de-

defendant has been sentenced to imprisonment for life without the possibility of parole.

(c) As used in this section:

(1) “Aggravated habitual sex offender” means a person who, on and after July 1, 2006: (A) Has been convicted in this state of a sexually violent crime, as described in subsection (c)(2)(A) through (c)(2)(J) or (c)(2)(L); and (B) prior to the conviction of the felony under subparagraph (A), has been convicted of two or more sexually violent crimes;

(2) “Sexually violent crime” means:

(A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto;

(B) 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. 2016 Supp. 21-5506, and amendments thereto;

(C) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of K.S.A. 21-3505(a)(2) or (3), prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2016 Supp. 21-5504(a)(3) or (4), and amendments thereto;~~

(D) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504, and amendments thereto;

(E) 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. 2016 Supp. 21-5508, and amendments thereto;

(F) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto;

(G) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2016 Supp. 21-5505, and amendments thereto;

(H) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604, and amendments thereto;

(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b) of K.S.A. 2016 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;~~

(J) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto;

(K) *internet trading in child pornography or aggravated internet trading in child pornography, as defined in section 3, and amendments thereto;*

(L) any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

~~(H)~~(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. 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section; or



~~(M)(N)~~ any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, “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.

Sec. 17. K.S.A. 2016 Supp. 21-6627 is hereby amended to read as follows: 21-6627. (a) (1) Except as provided in subsection (b) or (d), a defendant who is 18 years of age or older and is convicted of the following crimes committed on or after July 1, 2006, shall be sentenced to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 25 years unless the court determines that the defendant should be sentenced as determined in subsection (a)(2):

(A) Aggravated human trafficking, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in ~~subsection (a)(3) of~~ K.S.A. 2016 Supp. 21-5503(a)(3), and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in ~~subsection (b)(3) of~~ K.S.A. 2016 Supp. 21-5506(b)(3), and amendments thereto;

(D) aggravated criminal sodomy, as defined in ~~subsection (b)(1) or (b)(2) of~~ K.S.A. 2016 Supp. 21-5504(b)(1) or (2), and amendments thereto;

(E) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age;

(F) sexual exploitation of a child, as defined in ~~subsection (a)(1) or (a)(4) of~~ K.S.A. 2016 Supp. 21-5510(a)(1) or (4), and amendments thereto, if the child is less than 14 years of age; ~~and~~

(G) *aggravated internet trading in child pornography, as defined in section 3(b), and amendments thereto, if the child is less than 14 years of age; and*

(H) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in subsections (a)(1)(A) through (a)(1)(F)(G).

(2) The provision of subsection (a)(1) requiring a mandatory minimum term of imprisonment of not less than 25 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2016 Supp. 21-6626, and amendments thereto; or

(B) the defendant, because of the defendant’s criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range ex-

ceeds 300 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(b) (1) On and after July 1, 2006, if a defendant who is 18 years of age or older is convicted of a crime listed in subsection (a)(1) and such defendant has previously been convicted of a crime listed in subsection (a)(1), a crime in effect at any time prior to July 1, 2011, which is substantially the same as a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially the same as a crime listed in subsection (a)(1), the court shall sentence the defendant to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 40 years. The provisions of this paragraph shall not apply to a crime committed under K.S.A. 2016 Supp. 21-5507, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 2016 Supp. 21-5507, and amendments thereto.

(2) The provision of subsection (b)(1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2016 Supp. 21-6626, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 480 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(c) When a person is sentenced pursuant to subsection (a) or (b), such person shall be sentenced to a mandatory minimum term of imprisonment of not less than 25 years, 40 years or be sentenced as determined in subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving such mandatory term of imprisonment, and such imprisonment shall not be reduced by the application of good time credits.

(d) (1) On or after July 1, 2006, for a first time conviction of an offense listed in subsection (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence shall be

the sentence pursuant to the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and, subject to the provisions of K.S.A. 2016 Supp. 21-6818, and amendments thereto, no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder.

(2) As used in this subsection, “mitigating circumstances” shall include, but are not limited to, the following:

- (A) The defendant has no significant history of prior criminal activity;
- (B) the crime was committed while the defendant was under the influence of extreme mental or emotional disturbances;
- (C) the victim was an accomplice in the crime committed by another person, and the defendant’s participation was relatively minor;
- (D) the defendant acted under extreme distress or under the substantial domination of another person;
- (E) the capacity of the defendant to appreciate the criminality of the defendant’s conduct or to conform the defendant’s conduct to the requirements of law was substantially impaired; and
- (F) the age of the defendant at the time of the crime.

(e) The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, shall not apply to any defendant sentenced pursuant to this section.

Sec. 18. K.S.A. 2016 Supp. 21-6806 is hereby amended to read as follows: 21-6806. (a) Sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of the primary sentence for good time as authorized by K.S.A. 2016 Supp. 21-6821, and amendments thereto.

(b) The sentencing court shall pronounce sentence in all felony cases.

(c) Violations of K.S.A. 2016 Supp. 21-5401, 21-5402, 21-5421, 21-5422 and 21-5901, and amendments thereto, are off-grid crimes for the purpose of sentencing. Except as otherwise provided by K.S.A. 2016 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments thereto, the sentence shall be imprisonment for life and shall not be subject to statutory provisions for suspended sentence, community service or probation.

(d) As identified in K.S.A. 2016 Supp. 21-5426, 21-5503, 21-5504, 21-5506, 21-5510, *section 3* and 21-6422, and amendments thereto, if the offender is 18 years of age or older and the victim is under 14 years of age, such violations are off-grid crimes for the purposes of sentencing. Except as provided in K.S.A. 2016 Supp. 21-6626, and amendments thereto, the sentence shall be imprisonment for life pursuant to K.S.A. 2016 Supp. 21-6627, and amendments thereto.

Sec. 19. K.S.A. 2016 Supp. 22-3601 is hereby amended to read as follows: 22-3601. (a) Any appeal permitted to be taken from a district

court's final judgment in a criminal case shall be taken to the court of appeals, except in those cases reviewable by law in the district court or in which a direct appeal to the supreme court is required. Whenever an interlocutory appeal is permitted in a criminal case in the district court, such appeal shall be taken to the court of appeals.

(b) Any appeal permitted to be taken from a district court's final judgment in a criminal case shall be taken directly to the supreme court in the following cases:

(1) Any case in which a statute of this state or of the United States has been held unconstitutional;

(2) any case in which the defendant has been convicted of a class A felony;

(3) any case in which a maximum sentence of life imprisonment has been imposed, unless the maximum sentence has been imposed pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments thereto; and

(4) except as provided further, any case in which the crime was committed on or after July 1, 1993, and the defendant has been convicted of an off-grid crime. The provisions of this paragraph shall not apply to any case in which the off-grid crime was:

(A) Aggravated human trafficking, ~~subsection (c)(2)(B) of K.S.A. 2016 Supp. 21-5426(c)(3)~~, and amendments thereto;

(B) rape, ~~subsection (b)(2)(B) of K.S.A. 2016 Supp. 21-5503(b)(2)(B)~~, and amendments thereto;

(C) aggravated criminal sodomy, ~~subsection (c)(2)(B)(ii) of K.S.A. 2016 Supp. 21-5504(c)(2)(B)(ii)~~, and amendments thereto;

(D) aggravated indecent liberties with a child, ~~subsection (c)(2)(C)(ii) of K.S.A. 2016 Supp. 21-5506(c)(2)(C)(ii)~~, and amendments thereto;

(E) sexual exploitation of a child, ~~subsection (b)(2)(B) of K.S.A. 2016 Supp. 21-5510(b)(2)(B)~~, and amendments thereto;

(F) *aggravated internet trading in child pornography, section 3(c)(3), and amendments thereto;*

(G) commercial sexual exploitation of a child, ~~subsection (b)(2) of K.S.A. 2016 Supp. 21-6422(b)(2)~~, and amendments thereto; or

~~(G)(H)~~ an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2016 Supp. 21-5301, 21-5302 or ~~21-5303~~ 21-5303, and amendments thereto, of any such felony.

Sec. 20. K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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 K.S.A. 2016 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. 2016 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. 2016 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 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. 2016 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. 2016 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. 2016 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 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. 2016 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2016 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. 2016 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. 2016 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 K.S.A. 21-4714(e), prior to its repeal, or K.S.A. 2016 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. 2016 Supp. 21-6817, and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A. 2016 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. 2016 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 su-

pervision 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 K.S.A. 22-3716(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to 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. 2016 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;

(D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its repeal, or K.S.A. 2016 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 K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 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. 2016 Supp. 21-5510, and amendments thereto;



(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 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) *internet trading in child pornography, as defined in section 3(a), and amendments thereto;*

(M) *aggravated internet trading in child pornography, as defined in section 3(b), and amendments thereto;*

(N) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto; or

~~(M)(O)~~ 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. 2016 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 required 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 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 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.

(l) 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 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 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. 2016 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 K.S.A. 2016 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. 2016 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. 21. K.S.A. 2016 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. 2016 Supp. 21-5511, and amendments thereto;

(B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its repeal, or K.S.A. 2016 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. 2016 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. 2016 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. 2016 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. 2016 Supp. 21-5505(a), 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. 2016 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. 2016 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 K.S.A. 2016 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 K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;

(4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2016 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 K.S.A. 2016 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 K.S.A. 2016 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 K.S.A. 2016 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. 2016 Supp. 21-5510, and amendments thereto;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 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. 2016 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. 2016 Supp. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 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. 2016 Supp. 21-6422, and amendments thereto;

(15) *promoting the sale of sexual relations, as defined in K.S.A. 2016 Supp. 21-6420, and amendments thereto;*

(16) 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)~~(17) 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. 2016 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

~~(17)~~(18) 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. 2016 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. 2016 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. 2016 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. 2016 Supp. 21-5404, and amendments thereto;

(E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2016 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto. The provisions of this paragraph shall not apply to violations of K.S.A. 2016 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 K.S.A. 2016 Supp. 21-5408(a), and amendments thereto;

(G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or K.S.A. 2016 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. 2016 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 K.S.A. 2016 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. 2016 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. 2016 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 K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2016 Supp. 21-5709(a), and amendments thereto;

(C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or K.S.A. 2016 Supp. 21-5705(a)(1), and amendments thereto. The provisions of this paragraph shall not apply to violations 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. 2016 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 K.S.A. 2016 Supp. 21-5611(a), and amendments thereto, aggravated unlawful transmission of a visual depiction of a child, as defined in K.S.A. 2016 Supp. 21-5611(b), and amendments thereto, or unlawful possession of a visual depiction of a child, as defined in K.S.A. 2016 Supp. 21-5610, 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. 22. K.S.A. 2016 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5505(a), and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2016 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) *promoting the sale of sexual relations, as defined in K.S.A. 2016 Supp. 21-6420, and amendments thereto;*

(D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2016 Supp. 21-6421, prior to its amendment by section

18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, when one of the parties involved is less than 18 years of age;

~~(D)~~(E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2016 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;

~~(E)~~(F) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments thereto;

~~(F)~~(G) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto;

~~(G)~~(H) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto;

~~(H)~~(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;

~~(I)~~(J) 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. 2016 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto;

~~(J)~~(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2016 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

~~(K)~~(L) 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;

~~(L)~~(M) conviction of any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act;

~~(M)~~(N) conviction 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;

~~(N)~~(O) 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. 2016 Supp. 21-5703, and amendments thereto;

~~(O)~~(P) 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 by ~~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. 2016 Supp. 21-5709(a), and amendments thereto;

~~(P)~~(Q) 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. 2016 Supp. 21-5705(a)(1), and amendments thereto; or~~

~~(R)~~ any 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. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender’s duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) 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. 2016 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the parties involved is less than 18 years of age;~~

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;~~

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2016 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or ~~subsection (b) of K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;~~

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or ~~subsection (a) of K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;~~

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2016 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or ~~subsection (b) of K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;~~

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if

the person selling sexual relations is 14 or more years of age but less than 18 years of age; or

(J) any 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. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.

(d) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto;

(2) 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. 2016 Supp. 21-5508(b), 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. 2016 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. 2016 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. 2016 Supp. 21-5504(b), and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5426(b), and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013, if the person selling sexual relations is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5408(a), and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its



repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5408(b), and amendments thereto;

(11) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto; or

(12) any 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. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in ~~subsection (c)~~ of K.S.A. 22-4902(c), and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in ~~subsection (c)~~ of K.S.A. 22-4902(c), and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2016 Supp. 21-6804, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age,

at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in ~~subsection (c) of K.S.A. 22-4902(c)~~, and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2016 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.

(i) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act for an offense that would not otherwise require registration as provided in ~~subsection (a)(5) of K.S.A. 22-4902(a)(5)~~, and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(j) The duration of registration does not terminate if the convicted or adjudicated offender again becomes liable to register as provided by the Kansas offender registration act during the required period of registration.

(k) For any person moving to Kansas who has been convicted or adjudicated in an out-of-state court, or who was required to register under an out-of-state law, the duration of registration shall be the length of time required by the out-of-state jurisdiction or by the Kansas offender registration act, whichever length of time is longer. The provisions of this

subsection shall apply to convictions or adjudications prior to June 1, 2006, and to persons who moved to Kansas prior to June 1, 2006, and to convictions or adjudications on or after June 1, 2006, and to persons who moved to Kansas on or after June 1, 2006.

(l) For any person residing, maintaining employment or attending school in this state who has been convicted or adjudicated by an out-of-state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction or adjudication, the duration of registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act.

Sec. 23. K.S.A. 2016 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in ~~subsection~~ *subsections* (b) and (c), any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2016 Supp. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 2016 Supp. 21-5405(a)(3), and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; *section 3(a), and amendments thereto, internet trading in child pornog-*

*raphy; section 3(b), and amendments thereto, aggravated internet trading in child pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or K.S.A. 2016 Supp. 21-5601(a), and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2016 Supp. 21-5602, and amendments thereto, abuse of a child; or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.*

(c) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(d) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile as reflected in the court record, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6) the identity of the trial court. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$176. On and after July 1, 2015, through June 30, 2017, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(e) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) (i) The juvenile has reached 23 years of age or that two years have elapsed since the final discharge; ~~or~~

(ii) one year has elapsed since the final discharge for an adjudication concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 2016 Supp. 21-6419, and amendments thereto; ~~or~~

(iii) *the juvenile is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child, the adjudication concerned acts committed by the juvenile as a result of such victimization, including, but not limited to, acts which, if committed by an adult, would constitute a violation of K.S.A. 2016 Supp. 21-6203 or 21-6419, and amendments thereto, and the hearing on expungement occurred on or after the date of final discharge. The provisions of this clause shall not allow an expungement of records or files concerning acts described in subsection (b);*

(B) since the final discharge of the juvenile, the juvenile has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

(f) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The petitioner, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the juvenile. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees.

(g) A certified copy of any order made pursuant to subsection (a) or (d) shall be sent to the Kansas bureau of investigation, which shall notify every juvenile or criminal justice agency which may possess records or files ordered to be expunged. If the agency fails to comply with the order within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly.

(h) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

(i) Nothing in this section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the juvenile.

(j) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the revised Kansas juvenile justice code.

(k) Whenever the records or files of any adjudication have been expunged under the provisions of this section, the custodian of the records or files of adjudication relating to that offense shall not disclose the existence of such records or files, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(7) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(8) the Kansas sentencing commission; or

(9) the Kansas bureau of investigation, for the purposes of:

(A) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(l) The provisions of subsection (k)(9) shall apply to all records created prior to, on and after July 1, 2011.

Sec. 24. K.S.A. 2016 Supp. 74-7305 is hereby amended to read as follows: 74-7305. (a) An application for compensation shall be made in the manner and form prescribed by the board.

(b) Compensation may not be awarded unless an application has been filed with the board within two years of the reporting of the incident to law enforcement officials if the victim was less than 16 years of age and the injury or death is the result of any of the following crimes: (1) Indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto; (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto; (4)

enticement of a child as defined in K.S.A. 21-3509, prior to its repeal; (5) indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto; (6) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto; (8) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto; (9) human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto; (10) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments thereto; or (11) commercial sexual exploitation of a child as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto. Compensation for mental health counseling may be awarded, if a claim is filed within two years of testimony, to a claimant who is, or will be, required to testify in a sexually violent predator commitment, pursuant to article 29a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, of an offender who victimized the claimant or the victim on whose behalf the claim is made. For all other incidents of criminally injurious conduct, compensation may not be awarded unless the claim has been filed with the board within two years after the injury or death upon which the claim is based. Compensation may not be awarded to a claimant who was the offender or an accomplice of the offender and may not be awarded to another person if the award would unjustly benefit the offender or accomplice.

(c) Compensation otherwise payable to a claimant shall be reduced or denied, to the extent, if any that the:

(1) Economic loss upon which the claimant's claim is based is recouped from other persons, including collateral sources;

(2) board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims; or

(3) board deems reasonable, because the victim was likely engaging in, or attempting to engage in, unlawful activity at the time of the crime upon which the claim for compensation is based. This subsection shall not be construed to reduce or deny compensation to a victim of domestic abuse or sexual assault.

(d) Compensation may be awarded only if the board finds that unless the claimant is awarded compensation the claimant will suffer financial stress as the result of economic loss otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain the claimant's customary level of health, safety and education for self and dependents without undue financial hardship. In making its determination of financial stress, the board shall consider all relevant factors, including:

(1) The number of claimant's dependents;

- (2) the usual living expenses of the claimant and the claimant's family;
- (3) the special needs of the claimant and the claimant's dependents;
- (4) the claimant's income and potential earning capacity; and
- (5) the claimant's resources.

(e) Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within 72 hours after its occurrence or the board finds there was good cause for the failure to report within that time.

(f) The board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

(g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or K.S.A. 2016 Supp. 21-5604, and amendments thereto, or cases of sex offenses established 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. 2016 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. 2016 Supp. 21-5426, and amendments thereto, compensation may not be awarded if the economic loss is less than \$100.

(h) Compensation for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss may not exceed \$400 per week or actual loss, whichever is less.

(i) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed \$25,000 in the aggregate.

*(j) Nothing in subsections (c)(2), (c)(3), (e) and (f) shall be construed to reduce or deny compensation to a victim of human trafficking or aggravated human trafficking, as defined in K.S.A. 2016 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto, who was 18 years of age or younger at the time the crime was committed and is otherwise qualified for compensation.*

Sec. 25. K.S.A. 2016 Supp. 75-759 is hereby amended to read as follows: 75-759. (a) A notice offering help to victims of human trafficking shall be accessible on the official website of the attorney general, the official website of the department for children and families and the official website of the department of labor, and may be posted in a prominent and accessible location in workplaces.

(b) The notice shall provide such information as the attorney general determines appropriate to help and support victims of human trafficking, including, but not limited to, information regarding the national human trafficking resource center (NHTRC) hotline as follows:

“If you or someone you know is being forced to engage in any activity



and cannot leave – whether it is commercial sex, housework, farm work or any other activity – call the toll-free National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services. The toll-free hotline is:

- Available 24 hours a day, 7 days a week
- Operated by a nonprofit, nongovernmental organization
- Anonymous and confidential
- Accessible in 170 languages
- Able to provide help, referral to services, training, and general information.”

(c) The notice described in this section shall be made available in English, Spanish, and, if requested by an employer, another language.

(d) The secretary of labor, in consultation with the attorney general, shall develop and implement an education plan to raise awareness among Kansas employers about the problem of human trafficking, about the hotline described in this section, and about other resources that may be available to employers, employees, and potential victims of human trafficking. On or before February 1, 2014, the secretary shall report to the standing committees on judiciary in the senate and the house of representatives, respectively, on the progress achieved in developing and implementing the notice requirement and education plan required by this section.

Sec. 26. K.S.A. 2016 Supp. 12-4120, 21-5301, 21-5302, 21-5303, 21-5401, 21-5426, 21-5502, 21-5510, 21-6421, 21-6422, 21-6614, 21-6614g, 21-6614h, 21-6626, 21-6627, 21-6806, 22-3601, 22-3717, 22-4902, 22-4906, 38-2312, 74-7305 and 75-759 are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 24, 2017.

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## CHAPTER 79

### HOUSE BILL No. 2054

AN ACT concerning state agencies; relating to records and reports of the department of labor; requests for law enforcement assistance from jurisdictions located outside the state of Kansas; the Kansas law enforcement training act; qualifications of applicants for certification; providing data and information to the Kansas sentencing commission; transfer of fees; notification of such transfer; amending K.S.A. 75-3036 and K.S.A. 2016 Supp. 44-714, 48-3602, 74-5605 and 74-9101 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 44-714 is hereby amended to read as follows: 44-714. (a) *Duties and powers of secretary.* It shall be the duty

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

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

(c) *Personnel.* Subject to other provisions of this act, the secretary is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, deputies, attorneys, experts and other persons as may be necessary in carrying out the provisions of this act. The secretary may delegate to any such person so appointed such power and authority as the secretary deems reasonable and proper for the effective administration of this act, and may in the secretary's discretion bond any person handling moneys or signing checks under the employment security law.

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

(e) *Records and reports.* Each employing unit shall keep true and accurate work records, containing such information as the secretary may prescribe. Such records shall be open to inspection and subject to being copied by the secretary or the secretary's authorized representatives at any reasonable time and shall be preserved for a period of five years from

the due date of the contributions or payments in lieu of contributions for the period to which they relate. Only one audit shall be made of any employer's records for any given period of time. Upon request the employing unit shall be furnished a copy of all findings by the secretary or the secretary's authorized representatives, resulting from such audit. A special inquiry or special examination made for a specific and limited purpose shall not be considered to be an audit for the purpose of this subsection. The secretary may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the secretary deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall be held confidential, except to the extent necessary for the proper presentation of a claim by an employer or employee under the employment security law, and shall not be published or be open to public inspection, other than to ~~public employees~~ *officials or the agents or contractors of a public official* in the performance of their ~~public~~ *official* duties, in any manner revealing the individual's or employing unit's identity. The secretary may publish or otherwise disclose appeals records and decisions, and precedential determinations on coverage of employers, employment and wages, provided all social security numbers have been removed. Any claimant or employing unit or their representatives at a hearing before an appeal tribunal or the secretary shall be supplied with information from such records to the extent necessary for the proper presentation of the claim. The transcript made at any such benefits hearing shall not be discoverable or admissible in evidence in any other proceeding, hearing or determination of any kind or nature. In the event of any appeal of a benefits matter, the transcript shall be sealed by the hearing officer and shall be available only to any reviewing authority who shall reseal the transcript after making a review of it. In no event shall such transcript be deemed a public record. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, upon request of either of the parties, for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state program, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, for use as evidence in a criminal investigation or in open court in a criminal prosecution or at an appeal hearing under the employment security law. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts to an agent

or contractor of a public official to whom disclosure is permissible under the employment security law, except that any party receiving such information shall be prohibited from further disclosure, *except for use in the performance of such party's official duties*, and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality. ~~If the secretary or any officer or employee of the secretary~~ Any individual who violates any provisions of this subsection, ~~the secretary or such officer or employee~~ shall be fined not less than \$20 nor more than \$200 or imprisoned for not longer than 90 days, or both. Original records of the agency and original paid benefit warrants of the state treasurer may be made available to the employment security agency of any other state or the federal government to be used as evidence in prosecution of violations of the employment security law of such state or federal government. Photostatic copies of such records shall be made and where possible shall be substituted for original records introduced in evidence and the originals returned to the agency.

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

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

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

by leaving a copy of the subpoena at the individual's dwelling house, usual place of abode or usual business establishment, and by mailing a notice by first-class mail to the place that the copy has been left.

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

(3) *Refusal to accept service.* In all cases when the person to be served, or an agent authorized by such person to accept service of petitions and summonses shall refuse to receive copies of the subpoena, the offer of the duly authorized process server to deliver copies thereof and such refusal shall be sufficient service of such subpoena.

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

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

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

(h) *Subpoenas, enforcement.* In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found, resides or transacts business, upon application by the secretary or the secretary's duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the secretary, or the secretary's duly authorized representative, to produce evidence, if so ordered, or to give testimony relating to the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as a contempt thereof. Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda or

other records in obedience to the subpoena of the secretary or the secretary's duly authorized representative shall be punished by a fine of not less than \$200 or by imprisonment of not longer than 60 days, or both, and each day such violation continued shall be deemed to be a separate offense.

(i) *State-federal cooperation.* In the administration of this act, the secretary shall cooperate to the fullest extent consistent with the provisions of this act, with the federal security agency, shall make such reports, in such form and containing such information as the federal security administrator may from time to time require, and shall comply with such provisions as the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the federal security agency governing the expenditures of such sums as may be allotted and paid to this state under title III of the social security act for the purpose of assisting in the administration of this act. Upon request therefor the secretary shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

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

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

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

(3) potential rights to benefits accumulated under the employment compensation laws of one or more states or under one or more such laws

of the federal government, or both, may constitute the basis for the payments of benefits through a single appropriate agency under terms which the secretary finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;

(4) wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining such individual's rights to benefits under this act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this act, shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this act upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the secretary finds will be fair and reasonable as to all affected interests; and

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

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

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

made available to this state by the agency charged with the administration of any such other unemployment compensation or public employment service law; and

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

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

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

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

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

(o) *“Performance of official duties” means the administration or enforcement of law or the execution of the official responsibilities of a federal, state or local official, collection of debts owed to the courts or the enforcement of child support on behalf of a state or local official. Administration of law includes research related to the law administered by the public official. “Performance of official duties” does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.*



Sec. 2. K.S.A. 2016 Supp. 48-3602 is hereby amended to read as follows: 48-3602. (a) The chief law enforcement executive for any law enforcement agency, ~~or~~ such executive's designee, *the secretary of corrections or the secretary's designee* may request assistance from a law enforcement agency *or a department of corrections* of another jurisdiction, including a jurisdiction located outside the state of Kansas, but within the United States.

(b) If a law enforcement officer makes an arrest or apprehension outside such officer's jurisdiction, the offender shall be delivered to the first available law enforcement officer who is commissioned in the jurisdiction in which the arrest was made. The officer making the initial arrest or apprehension shall assist in the preparation of any affidavits filed with the complaint or based on other evidence that there is probable cause to believe that both a crime has been committed and the defendant has committed such crime.

(c) For the purposes of liability, all members of any political subdivision or public safety agency responding under operational control of the requesting political subdivision or public safety agency are deemed employees of such responding political subdivision or public safety agency and are subject to the liability and workers' compensation provisions provided to them as employees of their respective political subdivision or public safety agency. Qualified immunity, sovereign immunity, official immunity and the public duty rule shall apply to the provisions of this section as interpreted by the federal and state courts of the responding agency. The Kansas tort claims act, K.S.A. 75-6101 et seq., and amendments thereto, and the Kansas workers compensation act, K.S.A. 44-501 et seq., and amendments thereto, shall be interpreted consistent with the provisions of this section.

(d) Nothing in this section shall be construed to limit the actions of law enforcement officers or agencies conducted pursuant to K.S.A. 19-828, and amendments thereto.

(e) The provisions of article 24 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, and K.S.A. 21-5220 et seq., and amendments thereto, are applicable to any law enforcement officers from jurisdictions located outside the state of Kansas, but within the United States who are acting pursuant to a request made under this section.

(f) For purposes of this section, the term "law enforcement officer" shall have the same meaning as that term is defined by K.S.A. 74-5602, and amendments thereto, or a law enforcement officer who has obtained a similar designation to one described in K.S.A. 74-5602, and amendments thereto, in a jurisdiction outside the state of Kansas, but within the United States.

Sec. 3. K.S.A. 2016 Supp. 74-5605 is hereby amended to read as follows: 74-5605. (a) Every applicant for certification shall be an employee

of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; a manager or employee of the horsethief reservoir benefit district pursuant to K.S.A. 2016 Supp. 82a-2212, and amendments thereto; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 72-8222, and amendments thereto.

(b) Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant's appointing authority or agency head shall furnish to the director of police training and to the commission a statement certifying that the applicant has been found to meet the minimum requirements of certification established by this subsection. The commission may rely upon the statement of the appointing authority or agency head as evidence that the applicant meets the minimum requirements for certification to issue a provisional certification. Each applicant for certification shall meet the following minimum requirements:

- (1) Be a United States citizen;
- (2) have been fingerprinted and a search of local, state and national fingerprint files made to determine whether the applicant has a criminal record;
- (3) not have been convicted of a crime that would constitute a felony under the laws of this state, a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission;
- (4) have graduated from a high school accredited by the Kansas state board of education or the appropriate accrediting agency of another state jurisdiction or have obtained the equivalent of a high school education as defined by rules and regulations of the commission;
- (5) be of good moral character sufficient to warrant the public trust in the applicant as a police officer or law enforcement officer;
- (6) have completed an assessment, including psychological testing approved by the commission, to determine that the applicant does not have a mental or personality disorder that would adversely affect the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment;
- (7) be free of any physical or mental condition which adversely affects the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment; and
- (8) be at least 21 years of age.

(c) The commission may deny a provisional or other certification upon a finding that the applicant has engaged in conduct for which a certificate may be revoked, suspended or otherwise disciplined as pro-

vided in K.S.A. 74-5616, and amendments thereto. When it appears that grounds for denial of a certification exist under this subsection, after a conditional offer of employment has been made to an applicant seeking appointment as a police officer or law enforcement officer, the applicant's appointing authority or agency head may request an order from the commission to determine whether a provisional certification will be issued to that applicant.

(d) As used in this section, "conviction" includes rendering of judgment by a military court martial pursuant to the uniform code of military justice, by a court of the United States or by a court of competent jurisdiction in any state, whether or not expunged; and any diversion or *deferred judgment* agreement entered into for a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations by the commission and any diversion agreement or *deferred judgment* entered into on or after July 1, 1995, for a felony.

Sec. 4. K.S.A. 2016 Supp. 74-9101 is hereby amended to read as follows: 74-9101. (a) There is hereby established the Kansas sentencing commission.

(b) The commission shall:

(1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including, but not limited to, the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the prisoner review board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guidelines system;

(3) direct implementation of the sentencing guidelines system;

(4) assist in the process of training judges, county and district attor-

neys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(5) receive presentence reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993, to develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(6) advise and consult with the secretary of corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, including, but not limited to, the capacities of local and state correctional facilities. Such linkage shall include a review and determination of the impact of the sentencing guidelines on the state's prison population, review of corrections programs and a study of ways to more effectively utilize correction dollars and to reduce prison population;

(7) make recommendations relating to modification to the sentencing guidelines as provided in K.S.A. 2016 Supp. 21-6822, and amendments thereto;

(8) prepare and submit fiscal impact and correctional resource statement as provided in K.S.A. 74-9106, and amendments thereto;

(9) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(10) develop prosecuting standards and guidelines to govern the conduct of prosecutors when charging persons with crimes and when engaging in plea bargaining;

(11) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties and review of proposed criminal law changes;

(12) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general;

(13) develop a program plan which includes involvement of business and industry in the public or other social or fraternal organizations for admitting back into the mainstream those offenders who demonstrate both the desire and ability to reconstruct their lives during their incarceration or during conditional release;

(14) appoint a task force to make recommendations concerning the consolidation of probation, parole and community corrections services;

(15) produce official inmate population projections annually on or before six weeks following the date of receipt of the data from the department of corrections. When the commission's projections indicate that the inmate population will exceed available prison capacity within two years of the date of the projection, the commission shall identify and analyze the impact of specific options for: (A) Reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups of offenders. Options for reducing the number of prison admissions shall include, but not be limited to, possible modification of both sentencing grids to include presumptive intermediate dispositions for certain categories of offenders. Intermediate sanction dispositions shall include, but not be limited to: Intensive supervision; short-term jail sentences; halfway houses; community-based work release; electronic monitoring and house arrest; substance abuse treatment; and pre-revocation incarceration. Intermediate sanction options shall include, but not be limited to, mechanisms to explicitly target offenders that would otherwise be placed in prison. Analysis of each option shall include an assessment of such option's impact on the overall size of the prison population, the effect on public safety and costs. In preparing the assessment, the commission shall review the experience of other states and shall review available research regarding the effectiveness of such option. The commission's findings relative to each sentencing policy option shall be presented to the governor and the joint committee on corrections and juvenile justice oversight no later than November 1;

(16) at the request of the governor or the joint committee on corrections and juvenile justice oversight, initiate and complete an analysis of other sentencing policy adjustments not otherwise evaluated by the commission;

(17) develop information relating to the number of offenders on post-release supervision and subject to electronic monitoring for the duration of the person's natural life;

(18) determine the effect the mandatory sentencing established in K.S.A. 21-4642 and 21-4643, prior to their repeal, or K.S.A. 2016 Supp. 21-6626 and 21-6627, and amendments thereto, would have on the number of offenders civilly committed to a treatment facility as a sexually violent predator as provided pursuant to K.S.A. 59-29a01 et seq., and amendments thereto;

(19) assume the designation and functions of the state statistical analysis center. All criminal justice agencies, as defined in ~~subsection (c) of K.S.A. 22-4701(c)~~, and amendments thereto, ~~and the juvenile justice authority~~ shall provide any data or information, including juvenile offender information, requested by the commission to facilitate the function of the state statistical analysis center;

(20) subject to the provisions of appropriation acts and the availability of funds therefor, produce official juvenile correctional facility population projections annually on or before November 1, not more than six weeks following the receipt of the data from the juvenile justice authority and develop bed impacts regarding legislation that may affect juvenile correctional facility population;

(21) be authorized to make statewide supervision and placement cut-off decisions based upon the risk levels and needs of the offender. The commission shall periodically review data and make recommended changes;~~and~~

(22) determine the impact and effectiveness of supervision and sanctions for felony offenders regarding recidivism and prison and community-based supervision populations; *and*

(23) *gather data and information from any state agency to carry out the duties and functions described in this section. Unless otherwise prohibited by law, all state agencies shall provide any data or information requested by the commission to carry out such duties and functions. As used in this paragraph, "state agency" means any state office, officer, department, board, commission, institution, bureau, agency, or authority or any division or unit thereof.*

Sec. 5. K.S.A. 75-3036 is hereby amended to read as follows: 75-3036.

(a) The state general fund is exclusively defined as the fund into which shall be placed all public moneys and revenue coming into the state treasury not specifically authorized by the constitution or by statute to be placed in a separate fund, and not given or paid over to the state treasurer in trust for a particular purpose, which unallocated public moneys and revenue shall constitute the general fund of the state;~~but~~ Moneys received or to be used under constitutional or statutory provisions or under the terms of a gift or payment for a particular and specific purpose are to be kept as separate funds and shall not be placed in the general fund or ever become a part of it;~~except by proper statutory enactment, and~~

(b) *The following funds shall be used for the purposes set forth in the statutes concerning such funds and for no other governmental purposes. It is the intent of the legislature that the following funds and the moneys deposited in such funds shall remain intact and inviolate for the purposes set forth in the statutes concerning such funds: Board of accountancy fee fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special litigation reserve fund of the board of accountancy; bank commissioner fee fund, K.S.A. 9-1703, 16a-2-302, 17-5610, 17-5701 and 75-1308, and amendments thereto, bank investigation fund, K.S.A. 9-1111b, and amendments thereto, consumer education settlement fund and litigation expense fund of the state bank commissioner; securities act fee fund and investor education and protection fund, K.S.A. 17-12a601, and amendments thereto, of the office of the securities commissioner of Kansas; credit*

*union fee fund, K.S.A. 17-2236, and amendments thereto, of the state department of credit unions; court reporters fee fund, K.S.A. 20-1a02, and amendments thereto, and bar admission fee fund, K.S.A. 20-1a03, and amendments thereto, of the judicial branch; fire marshal fee fund, K.S.A. 31-133a and 31-134, and amendments thereto, and boiler inspection fee fund, K.S.A. 44-926, and amendments thereto, of the state fire marshal; food service inspection reimbursement fund, K.S.A. 36-512, and amendments thereto, of the Kansas department of agriculture; wage claims assignment fee fund, K.S.A. 44-324, and amendments thereto, and workmen's compensation fee fund, K.S.A. 74-715, and amendments thereto, of the department of labor; veterinary examiners fee fund, K.S.A. 47-820, and amendments thereto, of the state board of veterinary examiners; mined-land reclamation fund, K.S.A. 49-420, and amendments thereto, of the department of health and environment; conservation fee fund and well plugging assurance fund, K.S.A. 55-155, 55-176, 55-609, 55-711 and 55-901, and amendments thereto, gas pipeline inspection fee fund, K.S.A. 66-1,155, and amendments thereto, and public service regulation fund, K.S.A. 66-1503, and amendments thereto, of the state corporation commission; land survey fee fund, K.S.A. 58-2011, and amendments thereto, of the state historical society; real estate recovery revolving fund, K.S.A. 58-3074, and amendments thereto, of the Kansas real estate commission; appraiser fee fund, K.S.A. 58-4107, and amendments thereto, and appraisal management companies fee fund of the real estate appraisal board; amygdalin (laetrile) enforcement fee fund, K.S.A. 65-6b10, and amendments thereto; mortuary arts fee fund, K.S.A. 65-1718, and amendments thereto, of the state board of mortuary arts; board of barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of the Kansas board of barbering; cosmetology fee fund, K.S.A. 65-1951 and 74-2704, and amendments thereto, of the Kansas state board of cosmetology; healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-2911, 65-5413, 65-5513, 65-6910, 65-7210 and 65-7309, and amendments thereto, and medical records maintenance trust fund, of the state board of healing arts; other state fees fund, K.S.A. 2016 Supp. 65-4024b, and amendments thereto, of the Kansas department for aging and disability services; board of nursing fee fund, K.S.A. 74-1108, and amendments thereto, of the board of nursing; dental board fee fund, K.S.A. 74-1405, and amendments thereto, and special litigation reserve fund, of the Kansas dental board; optometry fee fund, K.S.A. 74-1503, and amendments thereto, and optometry litigation fund, of the board of examiners in optometry; state board of pharmacy fee fund, K.S.A. 74-1609, and amendments thereto, and state board of pharmacy litigation fund, of the state board of pharmacy; abstracters' fee fund, K.S.A. 74-3903, and amendments thereto, of the abstracters' board of examiners; athletic fee fund, K.S.A. 2016 Supp. 74-50,188, and amendments thereto, of the department of commerce; hearing instrument board fee fund, K.S.A. 74-5805, and amendments thereto, and hearing instru-*

*ment litigation fund of the Kansas board of examiners in fitting and dispensing of hearing instruments; commission on disability concerns fee fund, K.S.A. 74-6708, and amendments thereto, of the governor's department; technical professions fee fund, K.S.A. 74-7009, and amendments thereto, and special litigation reserve fund of the state board of technical professions; behavioral sciences regulatory board fee fund, K.S.A. 74-7506, and amendments thereto, of the behavioral sciences regulatory board; governmental ethics commission fee fund, K.S.A. 25-4119e, and amendments thereto, of the governmental ethics commission; emergency medical services board operating fund, K.S.A. 75-1514, and amendments thereto, of the emergency medical services board; fire service training program fund, K.S.A. 75-1514, and amendments thereto, of the university of Kansas; uniform commercial code fee fund, K.S.A. 2016 Supp. 75-448, and amendments thereto, of the secretary of state; prairie spirit rails-to-trails fee fund of the Kansas department of wildlife, parks and tourism; water marketing fund, K.S.A. 82a-1315c, and amendments thereto, of the Kansas water office; insurance department service regulation fund, K.S.A. 40-112, and amendments thereto, of the insurance department; state fair special cash fund, K.S.A. 2-220, and amendments thereto, of the state fair board; scrap metal theft reduction fee fund, K.S.A. 2016 Supp. 50-6,109a, and amendments thereto; and any other fund in which fees are deposited for licensing, regulating or certifying a person, profession, commodity or product.*

*(c) If moneys received pursuant to statutory provisions for a specific purpose by a fee agency are proposed to be transferred to the state general fund or a special revenue fund to be expended for general government services and purposes in the governor's budget report submitted pursuant to K.S.A. 75-3721, and amendments thereto, or any introduced house or senate bill, the person or business entity who paid such moneys within the preceding 24-month period shall be notified by the fee agency within 30 days of such submission or introduction:*

*(1) By electronic means, if the fee agency has an electronic address on record for such person or business entity. If no such electronic address is available, the fee agency shall send written notice by first class mail; or*

*(2) any agency that receives fees from a tax, fee, charge or levy paid to the commissioner of insurance shall post the notification required by this subsection on such agency's website.*

*(d) Any such moneys which are wrongfully or by mistake placed in the general fund shall constitute a proper charge against such general fund. ~~Provided, That~~ All legislative appropriations which do not designate a specific fund from which they are to be paid shall be considered to be proper charges against the general fund of the state. ~~Provided further, That~~ All revenues received by the state of Kansas or any department, board, commission, or institution of the state of Kansas, and required to*



be paid into the state treasury shall be placed in and become a part of the state general fund, except as *otherwise* provided ~~in this act~~ by law.

(e) *The provisions of this section shall not apply to the 10% credited to the state general fund to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services, and any and all other state governmental services, as provided in K.S.A. 75-3170a, and amendments thereto.*

(f) *Beginning on January 8, 2018, the director of the budget shall prepare a report listing the unencumbered balance of each fund in subsection (b) on June 30 of the previous fiscal year and January 1 of the current fiscal year. Such report shall be delivered to the secretary of the senate and the chief clerk of the house of representatives on or before the first day of the regular legislative session each year.*

(g) *As used in this section, “fee agency” shall include the state agencies specified in K.S.A. 75-3717(f), and amendments thereto, and any other state agency that collects fees for licensing, regulating or certifying a person, profession, commodity or product.*

Sec. 6. K.S.A. 75-3036 and K.S.A. 2016 Supp. 44-714, 48-3602, 74-5605 and 74-9101 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 24, 2017.

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CHAPTER 80

HOUSE BILL No. 2041  
(Amended by Chapter 100)

AN ACT concerning courts; relating to court fees and costs; judicial branch surcharge fund; disposition of failure to comply with a traffic citation reinstatement fees; collection of debts owed to the courts; amending K.S.A. 2016 Supp. 8-2107, 8-2110, 20-169, 20-1a15, 20-3021, 21-6614, 22-2410, 23-2510, 28-170, 28-172a, 28-177, 28-178, 28-179, 32-1049a, 38-2215, 38-2312, 38-2314, 59-104, 60-729, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 21-6614g and 21-6614h.

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

Section 1. K.S.A. 2016 Supp. 8-2107 is hereby amended to read as follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uniform act regulating traffic on highways, when a person is stopped by a police officer for any of the offenses described in subsection (d) and such person is not immediately taken before a judge of the district court, the police officer may require the person stopped, subject to the provisions of subsection (c), to deposit with the officer a valid Kansas driver’s license in exchange for a receipt therefor issued by such police officer, the form

of which shall be approved by the division of vehicles. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the person stopped until the date of the hearing stated on the receipt. The driver's license and a written copy of the notice to appear shall be delivered by the police officer to the court having jurisdiction of the offense charged as soon as reasonably possible. If the hearing on such charge is continued for any reason, the judge may note on the receipt the date to which such hearing has been continued and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date set for the original hearing. Any person who has deposited a driver's license with a police officer under this subsection (a) shall have such license returned upon final determination of the charge against such person.

(2) In the event the person stopped deposits a valid Kansas driver's license with the police officer and fails to appear in the district court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the court shall forward such person's driver's license to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of such person's driver's license, the division shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the court having jurisdiction of the offense charged, the court makes a final disposition thereof and notice of such disposition is given by the court to the division. No new or replacement license shall be issued to any such person until such notice of disposition has been received by the division. The provisions of K.S.A. 8-256, and amendments thereto, limiting the suspension of a license to one year, shall not apply to suspensions for failure to appear as provided in this subsection (a).

(b) No person shall apply for a replacement or new driver's license prior to the return of such person's original license which has been deposited in lieu of bond under this section. Violation of this subsection (b) is a class C misdemeanor. The division may suspend such person's driver's license for a period of not to exceed one year from the date the division receives notice of the disposition of the person's charge as provided in subsection (a).

(c) (1) In lieu of depositing a valid Kansas driver's license with the stopping police officer as provided in subsection (a), the person stopped may elect to give bond in the amount specified in subsection (d) for the offense for which the person was stopped. When such person does not have a valid Kansas driver's license, such person shall give such bond. Such bond shall be subject to forfeiture if the person stopped does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106, and amendments thereto.

(2) Such bond may be a cash bond, a bank card draft from any valid and unexpired credit card approved by the division of vehicles or superintendent of the Kansas highway patrol or a guaranteed arrest bond certificate issued by either a surety company authorized to transact such business in this state or an automobile club authorized to transact business in this state by the commissioner of insurance. If any of the approved bank card issuers redeem the bank card draft at a discounted rate, such discount shall be charged against the amount designated as the fine for the offense. If such bond is not forfeited, the amount of the bond less the discount rate shall be reimbursed to the person providing the bond by the use of a bank card draft. Any such guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company or automobile club guarantees the appearance of such person and will, in the event of failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person not to exceed an amount to be stated on such certificate.

(3) Such cash bond shall be taken in the following manner: The police officer shall furnish the person stopped a stamped envelope addressed to the judge or clerk of the court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the police officer shall deposit the same in the United States mail. After such cash payment, the person stopped need not sign the written notice to appear, but the police officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person stopped furnishes the police officer with a guaranteed arrest bond certificate or bank card draft, the police officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person stopped. Such person need not sign the written notice to appear, and the police officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the court having jurisdiction of the offense charged as soon as reasonably possible.

(d) The offenses for which appearance bonds may be required as provided in subsection (c) and the amounts thereof shall be as follows:

On and after July 1, 1996:

Reckless driving .....	\$82
Driving when privilege is canceled, suspended or revoked .....	82
Failure to comply with lawful order of officer .....	57
Registration violation (registered for 12,000 pounds or less) .....	52
Registration violation (registered for more than 12,000 pounds) .....	92
No driver's license for the class of vehicle operated or violation of restrictions .....	52
Spilling load on highway .....	52
Transporting open container of alcoholic liquor or cereal malt beverage accessible while vehicle in motion .....	223

(e) In the event of forfeiture of any bond under this section, \$75 of

the amount forfeited shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(f) None of the provisions of this section shall be construed to conflict with the provisions of the nonresident violator compact.

(g) When a person is stopped by a police officer for any traffic infraction and the person is a resident of a state which is not a member of the nonresident violator compact, K.S.A. 8-1219 et seq., and amendments thereto, or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount specified in the uniform fine schedule in K.S.A. 8-2118(c), and amendments thereto, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(h) When a person is stopped by a police officer for failure to provide proof of financial security pursuant to K.S.A. 40-3104, and amendments thereto, and the person is a resident of another state or the person is licensed to drive under the laws of a foreign country, the police officer may require a bond as provided for under subsection (c). The bond shall be in the amount of \$75, plus \$75 which shall be regarded as a docket fee in any court having jurisdiction over the violation of state law.

(i) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 2. K.S.A. 2016 Supp. 8-2110 is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to: (1) Appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed; or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) (1) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing notice, the division of vehicles will be notified to suspend the person's driving privileges. The district or municipal court may charge an additional fee of \$5 for mailing such notice. Upon the person's failure to

comply within such 30 days of mailing notice, the district or municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(2) (A) In lieu of suspension under paragraph (1), the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable \$25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund.

(B) A person whose driver's license has expired during the period when such person's driver's license has been suspended for failure to pay fines for traffic citations, the driver may submit to the division of vehicles a written request for restricted driving privileges, with a non-refundable \$25 application fee, to be applied by the division of vehicles for additional administrative costs to implement restricted driving privileges. The division shall remit all restricted driving privilege application fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the division of vehicles operating fund. An individual shall not qualify for restricted driving privileges pursuant to this section unless the following conditions are met: (i) The suspended license that expired was issued by the division of vehicles; (ii) the suspended license resulted from the individual's failure to comply with a traffic citation pursuant to subsection (b)(1); (iii) the traffic citation that resulted in the failure to comply pursuant to subsection (b)(1) was issued in this state; and (iv) the individual has not previously received a stayed suspension as a result of a driving while suspended conviction.

(C) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of ve-

hicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended by the division of vehicles until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension action. When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances: (i) In going to or returning from the person's place of employment or schooling; (ii) in the course of the person's employment; (iii) in going to or returning from an appointment with a health care provider or during a medical emergency; and (iv) in going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go by a court.

(c) (1) *Prior to July 1, 2018, except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$59 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued and regardless of any application for restricted driving privileges. Such reinstatement fee shall be in addition to any fine, restricted driving privilege application fee, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 42.37% of such moneys to the division of vehicles operating fund, 31.78% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 10.59% to the juvenile alternatives to detention fund created by K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2016 Supp. 20-1a15, and amendments thereto.*

(2) *On and after July 1, 2018, except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$100 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued and regardless of any application for restricted driving privileges. Such reinstatement fee shall be in addition to any fine, restricted driving privilege application fee, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each*

*such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit the first \$15 of such reinstatement fee to the judicial branch nonjudicial salary adjustment fund and of the remaining amount, 29.41% of such moneys to the division of vehicles operating fund, 22.06% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, 7.36% to the juvenile alternatives to detention fund created by K.S.A. 79-4803, and amendments thereto, and 41.17% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2016 Supp. 20-1a15, and amendments thereto.*

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. ~~In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.~~

(e) Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 3. K.S.A. 2016 Supp. 20-169 is hereby amended to read as follows: 20-169. (a) The judicial administrator is authorized to enter into contracts in accordance with this section for collection services for debts owed to courts or restitution owed under an order of restitution. On and after July 1, 1999, the cost of collection shall be paid by the ~~defendant~~ *responsible party* as an additional court cost in all ~~criminal, traffic and juvenile offender~~ cases where the ~~defendant~~ *such party* fails to pay any

~~amount ordered by the court~~ *debts owed to courts or restitution owed under an order of restitution* and the court utilizes the services of a contracting agent pursuant to this section. The cost of collection shall be deemed an administrative fee to pay the actual costs of collection made necessary by ~~the defendant's~~ *such party's* failure to pay court debt and restitution.

(b) As used in this section:

(1) "Beneficiary under an order of restitution" means the victim or victims of a crime to whom a district court has ordered restitution be paid;

(2) "contracting agent" means a person, firm, agency or other entity who contracts hereunder to provide collection services;

(3) "cost of collection" means the fee specified in contracts hereunder to be paid to or retained by a contracting agent for collection services. Cost of collection also includes any filing fee required under K.S.A. 60-4303, and amendments thereto, or administrative costs prescribed by rules of the supreme court; and

(4) "debts owed to courts" means any assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants or other charges which a district court judgment has ordered to be paid to the court, and which remain unpaid in whole or in part, and includes any interest or penalties on such unpaid amounts as provided for in the judgment or by law. "Debts owed to courts" also includes: (A) The cost of collection when collection services of a contracting agent hereunder are utilized; and (B) court costs, fines, fees or other charges arising from failure to comply with a traffic citation within 30 days from the date of the mailing of the notice pursuant to K.S.A. 8-2110(b)(1), and amendments thereto.

(c) (1) Contracts authorized by this section may be entered into with state or federal agencies or political subdivisions of the state of Kansas, including contracts for participation in the collection program authorized by K.S.A. 75-6201 et seq., and amendments thereto. Such contracts also may be entered into with private firms or individuals selected by a procurement negotiation committee in accordance with K.S.A. 75-37,102, and amendments thereto, except that the judicial administrator shall designate a representative to serve as the chief administrative officer member of such committee and that the other two members of such committee shall be designated by the director of purchases and the judicial administrator.

(2) Prior to negotiating any contract for collection services, this procurement negotiation committee shall advertise for proposals, negotiate with firms and individuals submitting proposals and select among those submitting such proposals the party or parties to contract with for the purpose of collection services.

(3) The supreme court may adopt rules as deemed appropriate for



the administration of this section, including procedures to be used in the negotiation and execution of contracts pursuant to this section and procedures to be followed by those who utilize collection services under such contracts.

(4) For purposes of this section, the agencies, firms or individuals with whom contracts are entered under this section shall be known as contracting agents. The judicial administrator shall publish a list of the contracting agents for use by courts or beneficiaries under orders of restitution who desire to utilize the collection services of such agents.

(5) Each contract entered pursuant to this section shall provide for a fee to be paid to or retained by the contracting agent for collection services. Such fee shall be designated as the cost of collection hereunder, and shall not exceed 33% of the amount collected. The cost of collection shall be paid from the amount collected, but shall not be deducted from the debts owed to courts or restitution. If a contracting agent uses the debt setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments thereto, to recover debts owed to the courts, the contracting agent's cost of collection for debt recovered through that program shall be the amount established by contract minus the collection assistance fee imposed by the director of accounts and reports of the department of administration pursuant to K.S.A. 75-6210, and amendments thereto.

(d) Judicial districts of the state of Kansas are authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding debts owed to courts. Subject to rules and orders of the Kansas supreme court, each judicial district may establish by local rule guidelines for the compromise of court costs, fines, attorney fees and other charges assessed in district court cases.

(e) Any beneficiary under an order of restitution entered by a court after this section takes effect is authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding amounts owed under such order of restitution.

(f) Contracts entered hereunder shall provide for the payment of any amounts collected to the clerk of the district court for the court in which the debt being collected originated, after first deducting the collection fee. In accounting for amounts collected from any person pursuant to this section, the district court clerk shall credit the person's amount owed in the amount of the net proceeds collected and shall not reduce the amount owed by any person by that portion of any payment which constitutes the cost of collection pursuant to this section.

(g) With the appropriate cost of collection paid to the contracting agent as agreed upon in the contract hereunder, the clerk shall then distribute amounts collected hereunder as follows:

(1) When collection services are utilized pursuant to subsection (d), all amounts shall be applied against the debts owed to the court as specified in the original judgment creating the debt;

(2) when collection services are utilized pursuant to subsection (e), all amounts shall be paid to the beneficiary under the order of restitution designated to receive such restitution, except where that beneficiary has received recovery from the Kansas crime victims compensation board and such board has subrogation rights pursuant to K.S.A. 74-7312, and amendments thereto, in which case all amounts shall be paid to the board until its subrogation lien is satisfied.

(h) Whenever collection services are being utilized against the same debtor pursuant to both subsections (d) and (e), any amounts collected by a contracting agent shall be first applied to satisfy subsection (e) debts, debts pursuant to an order of restitution. Upon satisfaction of all such debts, amounts received from the same debtor shall then be applied to satisfy subsection (d) debts, debts owed to courts.

Sec. 4. K.S.A. 2016 Supp. 20-3021 is hereby amended to read as follows: 20-3021. (a) (1) On and after July 1, 2014, any party filing an appeal with the court of appeals shall pay a fee in the amount of \$145 to the clerk of the supreme court.

(2) On and after July 1, 2014, any party filing an appeal with the supreme court shall pay a fee in the amount of \$145 to the clerk of the supreme court.

(b) A poverty affidavit may be filed in lieu of a fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The fee shall be the only costs assessed in each case to services of the clerk of the supreme court. The clerk of the supreme court shall remit all revenues received from this section to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury. The fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

(d) Except as provided further, the fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$10 per fee, to fund the costs of non-judicial personnel.

(e) The state of Kansas and all municipalities in this state, as defined in K.S.A. 12-105a, and amendments thereto, shall be exempt from paying such fee.

Sec. 5. K.S.A. 2016 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. 2016 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. 2016 Supp. 21-5406, and amendments thereto, or as pro-

hibited 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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. 2016 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, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, 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. 2016 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. 2016 Supp. 75-7c01 et seq., and amendments thereto; or

(L) for applications received on and after July 1, 2016, to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, 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. 2016 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 com-

missioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) the attorney general and the request is accompanied by a statement that the request is being made to:

(A) Aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act; or

(B) *act as a bail enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, and amendments thereto;* or

(17) the Kansas bureau of investigation for the purposes of:

(A) Completing a person's criminal history record information within the central repository, in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(m) The provisions of subsection (l)(17) shall apply to records created prior to, on and after July 1, 2011.

Sec. 6. K.S.A. 2016 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~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$19 per docket fee, to fund the costs of non-judicial personnel. The petition shall state:

- (1) The petitioner's full name;
- (2) the full name of the petitioner at the time of arrest, if different than the petitioner's current name;
- (3) the petitioner's sex, race and date of birth;
- (4) the crime for which the petitioner was arrested;
- (5) the date of the petitioner's arrest; and
- (6) the identity of the arresting law enforcement agency.

No surcharge or fee shall be imposed to any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal, or K.S.A. 2016 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 employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(4) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(5) in any application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(6) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(7) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(8) in any other circumstances which the court deems appropriate.

(f) The court shall make all expunged records and related information in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:

(1) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(2) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(g) Subject to any disclosures required under subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records have been expunged as provided in this section may state that such person has never been arrested.

(h) Whenever a petitioner's arrest records have been expunged as provided in this section, the custodian of the records of arrest, incarceration due to arrest or court proceedings related to the arrest, shall not disclose the arrest or any information related to the arrest, except as

directed by the order of expungement or when requested by the person whose arrest record was expunged.

(i) The docket fee collected at the time the petition for expungement is filed shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

Sec. 7. K.S.A. 2016 Supp. 23-2510 is hereby amended to read as follows: 23-2510. (a) The judge or clerk of the district court shall collect from the applicant for a marriage license a fee of \$59.

(b) The clerk of the court shall remit all fees prescribed by this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Of each remittance, the state treasurer shall credit 38.98% to the protection from abuse fund, 15.19% to the family and children trust account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto, 16.95% to the crime victims assistance fund created by K.S.A. 74-7334, and amendments thereto, 15.25% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2016 Supp. 20-1a15, and amendments thereto, and the remainder to the state general fund.

(c) Except as provided further, the marriage license fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for a marriage license. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$26.50 per marriage license fee, to fund the costs of non-judicial personnel.

Sec. 8. K.S.A. 2016 Supp. 28-170 is hereby amended to read as follows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001, and amendments thereto, and the fees for service of process, shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 or chapter 61 of the Kansas Statutes Annotated, and amendments thereto, except that no fee shall be charged for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-31a01 et seq., and amendments thereto. For services in other matters in which no other fee is prescribed by statute, the following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

1. For filing, entering and releasing a bond, mechanic's lien, notice of intent to perform, personal property tax judgment or any judgment on which execution process cannot be issued ..... \$14
2. For filing, entering and releasing a judgment of a court of this state on which execution or other process can be issued ..... \$24
3. For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the revised Kansas code for care of children, K.S.A. 2016 Supp. 38-2201 et seq., and amendments thereto, the revised Kansas juvenile justice code, K.S.A. 2016 Supp. 38-2301 et seq., and amendments thereto, the act for treatment of alcoholism, K.S.A. 65-4001 et seq., and amendments thereto, the act for treatment of drug abuse, K.S.A. 65-5201 et seq., and amendments thereto, or the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments thereto, the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a, and amendments thereto.

(d) Except as provided further, the bond, lien or judgment fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such bond, lien or judgment. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per bond, lien or judgment fee, to fund the costs of non-judicial personnel.

Sec. 9. K.S.A. 2016 Supp. 28-172a is hereby amended to read as follows: 28-172a. (a) Except as otherwise provided in this section, whenever the prosecuting witness or defendant is adjudged to pay the costs in a criminal proceeding in any county, a docket fee shall be taxed as follows, on and after July 1, 2013:

Murder or manslaughter .....	\$180.50
Other felony .....	171.00
Misdemeanor .....	136.00
Forfeited recognizance .....	72.50
Appeals from other courts .....	72.50

(b) (1) Except as provided in paragraph (2), in actions involving the violation of any of the laws of this state regulating traffic on highways, including those listed in K.S.A. 8-2118(c), and amendments thereto, a cigarette or tobacco infraction, any act declared a crime pursuant to the statutes contained in chapter 32 of the Kansas Statutes Annotated, and amendments thereto, or any act declared a crime pursuant to the statutes contained in article 8 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2014, a

docket fee of \$86 shall be charged. When an action is disposed of under K.S.A. 8-2118(a) and (b), or K.S.A. 79-3393(f), and amendments thereto, on and after July 1, 2014, the docket fee to be paid as court costs shall be \$86.

(2) In actions involving the violation of a moving traffic violation under K.S.A. 8-2118, and amendments thereto, as defined by rules and regulations adopted under K.S.A. 8-249, and amendments thereto, whenever the prosecuting witness or defendant is adjudged to pay the costs in the action, on and after July 1, 2014, a docket fee of \$86 shall be charged. When an action is disposed of under K.S.A. 8-2118(a) and (b), and amendments thereto, on and after July 1, 2014, the docket fee to be paid as court costs shall be \$86.

(c) If a conviction is on more than one count, the docket fee shall be the highest one applicable to any one of the counts. The prosecuting witness or defendant, if assessed the costs, shall pay only one fee. Multiple defendants shall each pay one fee.

(d) Statutory charges made pursuant to the provisions of K.S.A. 20-362, and amendments thereto, shall be paid from the docket fee; the family violence and child abuse and neglect assistance and prevention fund fee shall be paid from criminal proceedings docket fees. All other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Additional fees shall include, but are not limited to, fees for Kansas bureau of investigation forensic or laboratory analyses, fees for detention facility processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees for the sexual assault evidence collection kit, fees for conducting an examination of a sexual assault victim, fees for service of process outside the state, witness fees, fees for transcripts and depositions, costs from other courts, doctors' fees and examination and evaluation fees. No sheriff in this state shall charge any district court of this state a fee or mileage for serving any paper or process.

(e) In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs.

(f) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act

of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 10. K.S.A. 2016 Supp. 28-177 is hereby amended to read as follows: 28-177. (a) Except as provided in this section and K.S.A. 2016 Supp. 28-178, and amendments thereto, the fees established by legislative enactment shall be the only fee collected or moneys in the nature of a fee collected for court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. Court procedures shall include docket fees, filing fees or other fees related to access to court procedures. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$26.50 per fee or the amount established by the applicable statute, whichever amount is less, to fund the costs of non-judicial personnel.

(b) Such additional charge imposed by the court pursuant to K.S.A. 8-2107, 8-2110, 22-2410, 28-170, 28-172a, 59-104, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 and K.S.A. 2016 Supp. 21-6614, 23-2510, 28-178, 28-179, 32-1049a, 38-2215, 38-2312 and 38-2314, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch docket fee fund, which is hereby created in the state treasury.

(c) Moneys credited to the judicial branch docket fee fund shall not be expended for compensation of judges or justices of the judicial branch.

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

(e) Expenditures may be made from the judicial branch docket fee fund to provide services and programs for the purpose of educating and training judicial branch officers and employees, administering the training, testing and education of municipal judges as provided in K.S.A. 12-4114, and amendments thereto, and for educating and training municipal judges and municipal court and support staff, including official hospitality. The judicial administrator is hereby authorized to fix, charge and collect fees for such services and programs. Such fees may be fixed to cover all or part of the operating expenditures incurred in providing such services and programs, including official hospitality. All fees received for such purposes and programs, including official hospitality, shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215,



and amendments thereto, and shall be credited to the judicial branch docket fee fund.

(f) On the effective date of this act:

(1) The director of accounts and reports shall transfer all moneys in the judicial branch surcharge fund to the judicial branch docket fee fund;

(2) all liabilities of the judicial branch surcharge fund existing prior to that date are hereby imposed on the judicial branch docket fee fund; and

(3) the judicial branch surcharge fund is hereby abolished.

Sec. 11. K.S.A. 2016 Supp. 28-178 is hereby amended to read as follows: 28-178. (a) In addition to any other fees specifically prescribed by law, on and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose a charge, not to exceed \$12.50 per fee, to fund the costs of non-judicial personnel, on the following:

(1) A person who requests an order or writ of execution pursuant to K.S.A. 60-2401 or 61-3602, and amendments thereto.

(2) Persons who request a hearing in aid of execution pursuant to K.S.A. 60-2419, and amendments thereto.

(3) A person requesting an order for garnishment pursuant to article 7 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, or article 35 of chapter 61 of the Kansas Statutes Annotated, and amendments thereto.

(4) Persons who request a writ or order of sale pursuant to K.S.A. 60-2401 or 61-3602, and amendments thereto.

(5) A person who requests a hearing in aid of execution pursuant to K.S.A. 61-3604, and amendments thereto.

(6) A person who requests an attachment against the property of a defendant or any one or more of several defendants pursuant to K.S.A. 60-701 or 61-3501, and amendments thereto.

(b) The clerk of the district court shall remit all revenues received from the fees imposed pursuant to subsection (a) to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the judicial branch docket fee fund.

(c) The fees established in this section shall be the only fee collected or moneys in the nature of a fee collected for such court procedures. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

Sec. 12. K.S.A. 2016 Supp. 28-179 is hereby amended to read as follows: 28-179. (a) No post-decree motion petitioning for a modification or termination of separate maintenance, for a change in legal custody, residency, visitation rights or parenting time or for a modification of child support shall be filed or docketed in the district court without payment

of a docket fee in the amount of \$40 on and after July 1, 2013, to the clerk of the district court.

(b) A poverty affidavit may be filed in lieu of a docket fee as established in K.S.A. 60-2001, and amendments thereto.

(c) The docket fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The docket fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

(d) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

Sec. 13. K.S.A. 2016 Supp. 32-1049a is hereby amended to read as follows: 32-1049a. (a) Failure to comply with a wildlife, parks and tourism citation means failure to:

(1) Appear before any district court in response to a wildlife, parks and tourism citation and pay in full any fine, court costs, assessments or fees imposed;

(2) fully pay or satisfy all fines, court costs, assessments or fees imposed as a part of the sentence of any district court for violation of the wildlife, parks and tourism laws of this state; or

(3) otherwise comply with a wildlife, parks and tourism citation as provided in K.S.A. 32-1049, and amendments thereto.

Failure to comply with a wildlife, parks and tourism citation is a class C misdemeanor, regardless of the disposition of the charge for which such citation, complaint or charge was originally issued.

(b) The term "citation" means any complaint, summons, notice to appear, ticket, warrant, penalty assessment or other official document issued for the prosecution of the wildlife, parks and tourism laws or rules and regulations of this state.

(c) In addition to penalties of law applicable under subsection (a) when a person fails to comply with a wildlife, parks and tourism citation or sentence for a violation of wildlife, parks and tourism laws or rules and regulations, the district court in which the person should have complied shall mail a notice to the person that if the person does not appear in the district court or pay all fines, court costs, assessments or fees, and any penalties imposed within 30 days from the date of mailing, the Kansas department of wildlife, parks and tourism shall be notified to forfeit or suspend any license, permit, stamp or other issue of the department. Upon receipt of a report of a failure to comply with a wildlife, parks and tourism citation under this section, and amendments thereto, the de-

partment shall notify the violator and suspend or forfeit the license, permit, stamp or other issue of the department held by the violator until satisfactory evidence of compliance with the wildlife, parks and tourism citation or sentence of the district court for violation of the wildlife, parks and tourism laws or rules and regulations of this state are furnished to the informing court. Upon receipt of notification of such compliance from the informing court, the department shall terminate the suspension action, unless the violator is otherwise suspended.

(d) Except as provided in subsection (e), when the district court notifies the department of a failure to comply with a wildlife, parks and tourism citation or failure to comply with a sentence of the district court imposed on violation of a wildlife, parks and tourism law or rule and regulation, the court shall assess a reinstatement fee of \$50 for each charge or sentence on which the person failed to make satisfaction, regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, court costs and other assessments, fees or penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the state general fund.

(e) The district court shall waive the reinstatement fee provided for in subsection (d), if the failure to comply with a wildlife, parks and tourism citation was the result of such person enlisting in or being drafted into the armed services of the United States of America, being called into service as a member of a reserve component of the military service of the United States of America, or volunteering for such active duty or being called into service as a member of the Kansas national guard or volunteering for such active duty and being absent from Kansas because of such military service. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(f) Except as provided further, the reinstatement fee established in subsection (d) shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 14. K.S.A. 2016 Supp. 38-2215 is hereby amended to read as follows: 38-2215. (a) *Docket fee*. The docket fee for proceedings under

this code, if one is assessed as provided in this section, shall be \$34. Only one docket fee shall be assessed in each case. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Expenses.* The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket fee may be assessed or waived by the court conducting the initial dispositional hearing and the docket fee may be assessed against the complaining witness or person initiating the proceedings or a party or interested party other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state, or a person acting in the capacity of an employee of the state or of a political subdivision of the state. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Expenses.* Expenses may be assessed against the complaining witness, a person initiating the proceedings, a party or an interested party, other than the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state. When expenses are recovered from a person against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery. If it appears to the court in any proceedings under this code that expenses were unreasonably incurred at the request of any party the court may assess that portion of the expenses against the party.

(d) *Cases in which venue is transferred.* If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

Sec. 15. K.S.A. 2016 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in ~~subsection~~ *subsections* (b) and (c), any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2016 Supp. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 2016 Supp. 21-5405(a)(3), and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or K.S.A. 2016 Supp. 21-5601(a), and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2016 Supp. 21-5602, and amendments thereto, abuse of a child; or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

(c) Notwithstanding any other law to the contrary, for any offender who is required to register as provided in the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act.

(d) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile as reflected in the court record, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6) the identity of the trial court. Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$176. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(e) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) (i) The juvenile has reached 23 years of age or that two years have elapsed since the final discharge; or

(ii) one year has elapsed since the final discharge for an adjudication concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 2016 Supp. 21-6419, and amendments thereto;

(B) since the final discharge of the juvenile, the juvenile has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated as a juvenile offender under the revised Kansas juvenile justice code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

(f) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The petitioner, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the juvenile. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees.

(g) A certified copy of any order made pursuant to subsection (a) or (d) shall be sent to the Kansas bureau of investigation, which shall notify every juvenile or criminal justice agency which may possess records or

files ordered to be expunged. If the agency fails to comply with the order within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly.

(h) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

(i) Nothing in this section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the juvenile.

(j) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the revised Kansas juvenile justice code.

(k) Whenever the records or files of any adjudication have been expunged under the provisions of this section, the custodian of the records or files of adjudication relating to that offense shall not disclose the existence of such records or files, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(7) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(8) the Kansas sentencing commission; or

(9) the Kansas bureau of investigation, for the purposes of:

(A) Completing a person's criminal history record information within

the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or

(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(l) The provisions of subsection (k)(9) shall apply to all records created prior to, on and after July 1, 2011.

Sec. 16. K.S.A. 2016 Supp. 38-2314 is hereby amended to read as follows: 38-2314. (a) *Docket fee*. The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be \$34. Only one docket fee shall be assessed in each case. Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Expenses*. The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) *Assessment of docket fee and expenses*. (1) *Docket fee*. The docket fee may be assessed or waived by the court conducting the initial sentencing hearing and may be assessed against the juvenile or the parent of the juvenile. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Expenses*. Expenses may be waived or assessed against the juvenile or a parent of the juvenile. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery.

(3) *Prohibited assessment*. Docket fees or expenses shall not be assessed against the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state.

(d) *Cases in which venue is transferred*. If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the



sending county’s proportionate share of the expenses is collected by the receiving court. Unless otherwise ordered by the court, all amounts collected shall first be applied toward payment of restitution, then toward the payment of the docket fee.

Sec. 17. K.S.A. 2016 Supp. 59-104 is hereby amended to read as follows: 59-104. (a) *Docket fee.* (1) Except as otherwise provided by law, no case shall be filed or docketed in the district court under the provisions of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, without payment of an appropriate docket fee as follows, on and after July 1, 2014:

Treatment of mentally ill .....	\$34.50
Treatment of alcoholism or drug abuse .....	34.50
Determination of descent of property .....	49.50
Termination of life estate .....	48.50
Termination of joint tenancy .....	48.50
Refusal to grant letters of administration .....	48.50
Adoption .....	48.50
Filing a will and affidavit under K.S.A. 59-618a .....	48.50
Guardianship .....	69.50
Conservatorship .....	69.50
Trusteeship .....	69.50
Combined guardianship and conservatorship .....	69.50
Certified probate proceedings under K.S.A. 59-213, and amendments thereto .....	23.50
Decrees in probate from another state .....	173.00
Probate of an estate or of a will .....	109.50
Civil commitment under K.S.A. 59-29a01 et seq. ....	33.50

(2) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit in lieu of docket fee and exemptions.* The provisions of K.S.A. 60-2001(b) and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.

(c) *Disposition of docket fee.* Statutory charges for the law library and for the prosecuting attorneys’ training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or ad-

ministrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.

Sec. 18. K.S.A. 2016 Supp. 60-729 is hereby amended to read as follows: 60-729. (a) Garnishment is a procedure whereby the wages, money or intangible property of a person can be seized or attached pursuant to an order of garnishment issued by the court under the conditions set forth in the order.

(b) On and after July 1, 2014, any party requesting an order of garnishment shall pay a fee in the amount of \$7.50 to the clerk of the district court.

(c) A poverty affidavit may be filed in lieu of a fee as established in K.S.A. 60-2001, and amendments thereto.

(d) The fee shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. The fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

(e) Except as provided further, the fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$12.50 per fee, to fund the costs of non-judicial personnel.

(f) The state of Kansas and all municipalities in this state, as defined in K.S.A. 12-105a, and amendments thereto, shall be exempt from paying such fee.

Sec. 19. K.S.A. 2016 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) *Docket fee*. Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of \$173 on and after July 1, 2014, to the clerk of the district court. Except as provided further, the docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit in lieu of docket fee*. (1) *Effect*. In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if

the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in: (A) The six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall set forth a factual basis upon which the plaintiff alleges by reason of poverty an inability to pay a docket fee, including, but not limited to, the source and amount of the plaintiff's weekly income. Such affidavit shall be signed and sworn to by the plaintiff under oath, before one who has authority to administer the oath, under penalty of perjury, K.S.A. 2016 Supp. 21-5903, and amendments thereto. The form of the affidavit shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(3) *Court review; grounds for dismissal; service of process.* The court shall review any petition authorized for filing under this subsection. Upon such review, if the court finds that the plaintiff's allegation of poverty is untrue, the court shall direct the plaintiff to pay the docket fee or dismiss the petition without prejudice. Notwithstanding K.S.A. 60-301, and amendments thereto, service of process shall not issue unless the court grants leave following its review.

(c) *Disposition of fees.* The docket fees and the fees for service of process shall be the only costs assessed in each case for services of the clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362, and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as

additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

Sec. 20. K.S.A. 2016 Supp. 60-2203a is hereby amended to read as follows: 60-2203a. (a) After the commencement of any action in any district court of this state, or the courts of the United States in the state of Kansas or in any action now pending heretofore commenced in such courts, which does not involve title to real estate, any party to such action may give notice in any other county of the state of the pendency of the action by filing for record with the clerk of the district court of such other county a verified statement setting forth the parties to the action, the nature of the action, the court in which it is pending, and the relief sought, which shall impart notice of the pendency of the action and shall result in the same lien rights as if the action were pending in that county. The lien shall be effective from the time the statement is filed, but not to exceed four months prior to the entry of judgment except as provided in subsection (c). The party filing such notice shall within 30 days after any satisfaction of the judgment entered in such action, or any other final disposition thereof, cause to be filed with such clerk of the district court a notice that all claims in such action are released. If the party filing fails or neglects to do so after reasonable demand by any party in interest, such party shall be liable in damages in the same amounts and manner as is provided by law for failure of a mortgagee to enter satisfaction of a mortgage. Upon the filing of such a notice of the pendency of an action the clerk shall charge a fee of \$14 and shall enter and index the action in the same manner as for the filing of an original action. Upon the filing of a notice of release, the notice shall likewise be entered on the docket. Except as provided further, the fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the court procedure. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per fee, to fund the costs of non-judicial personnel.

(b) Any notice of the type provided for in subsection (a) which was filed on or after January 10, 1977, and prior to the effective date of this act shall be deemed to impart notice of the pendency of the action in the same manner as if the provisions of subsection (a) were in force and effect on and after January 10, 1977.

(c) Notwithstanding the foregoing provisions of this section, the filing of a notice of the pendency of an action pursuant to subsection (a) shall create no lien rights against the property of an employee of the state or a municipality prior to the date judgment is rendered if the pleadings in the pending action allege a negligent or wrongful act or omission of the employee while acting within the scope of such employee's employment, regardless of whether or not it is alleged in the alternative that the employee was acting outside of such employee's employment. A judgment against an employee shall become a lien upon such employee's property in the county where notice is filed pursuant to subsection (a) when the judgment is rendered only if it is found that: (1) The employee's negligent or wrongful act or omission occurred when the employee was acting outside the scope of such employee's employment; or (2) the employee's conduct which gave rise to the judgment was because of actual fraud or actual malice of the employee. In such cases the lien shall not be effective prior to the date judgment was rendered. As used in this subsection (c), "employee" shall have the meaning ascribed to such term in K.S.A. 75-6102, and amendments thereto.

Sec. 21. K.S.A. 2016 Supp. 61-2704 is hereby amended to read as follows: 61-2704. (a) An action seeking the recovery of a small claim shall be considered to have been commenced at the time a person files a written statement of the person's small claim with the clerk of the court if, within 90 days after the small claim is filed, service of process is obtained or the first publication is made for service by publication. Otherwise, the action is deemed commenced at the time of service of process or first publication. An entry of appearance shall have the same effect as service.

(b) Upon the filing of a plaintiff's small claim, the clerk of the court shall require from the plaintiff a docket fee of \$35 on and after July 1, 2014, if the claim does not exceed \$500; or \$55 on and after July 1, 2014, if the claim exceeds \$500; unless for good cause shown the judge waives the fee. The docket fee shall be the only costs required in an action seeking recovery of a small claim. No person may file more than 20 small claims under this act in the same court during any calendar year.

(c) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$12.50 per docket fee, to fund the costs of non-judicial personnel.

Sec. 22. K.S.A. 2016 Supp. 61-4001 is hereby amended to read as follows: 61-4001. (a) *Docket fee.* (1) No case shall be filed or docketed pursuant to the code of civil procedure for limited actions without the payment of a docket fee in the amount of \$35 on and after July 1, 2013,

if the amount in controversy or claimed does not exceed \$500; \$55 on and after July 1, 2013, if the amount in controversy or claimed exceeds \$500 but does not exceed \$5,000; or \$101 on and after July 1, 2013, if the amount in controversy or claimed exceeds \$5,000. If judgment is rendered for the plaintiff, the court also may enter judgment for the plaintiff for the amount of the docket fee paid by the plaintiff.

(2) Except as provided further, the docket fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$19 per docket fee, to fund the costs of non-judicial personnel.

(b) *Poverty affidavit; additional court costs; exemptions for the state and municipalities.* The provisions of K.S.A. 60-2001(b), (c) and (d) and 60-2005, and amendments thereto, shall be applicable to lawsuits brought under the code of civil procedure for limited actions.

Sec. 23. K.S.A. 2016 Supp. 65-409 is hereby amended to read as follows: 65-409. (a) The clerk of the district court shall charge a fee of \$14 for entering and filing a lien statement under this act.

(b) Except as provided further, the lien fee established in subsection (a) shall be the only fee collected or moneys in the nature of a fee collected for such lien. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, ~~2015~~ 2017, through June 30, ~~2017~~ 2019, the supreme court may impose an additional charge, not to exceed \$22 per lien fee, to fund the costs of non-judicial personnel.

Sec. 24. K.S.A. 2016 Supp. 20-1a15 is hereby amended to read as follows: 20-1a15. (a) There is hereby established in the state treasury the judicial branch nonjudicial salary adjustment fund.

(b) All moneys credited to the judicial branch nonjudicial salary adjustment fund shall be used for compensation of nonjudicial officers and employees of the district courts, court of appeals and the supreme court and shall not be expended for compensation of judges or justices of the judicial branch. ~~Moneys in the fund shall be used only to pay for that portion of the cost of salaries and wages of nonjudicial personnel of the judicial branch, including associated employer contributions, which shall not exceed the difference between the amount of expenditures that would be required under the judicial branch pay plan for nonjudicial personnel in effect prior to the effective date of this act and the amount of expenditures required under the judicial branch pay plan for nonjudicial personnel after the cost of living adjustments and the adjustments for upgrades in pay rates for nonjudicial personnel approved by the chief justice of the Kansas supreme court for fiscal year 2015. For fiscal years commencing~~

~~on and after June 30, 2016, moneys in such fund shall be used only for the amount attributable to maintenance of the judicial branch pay plan for nonjudicial personnel for such adjustments and upgrades approved by the chief justice of the supreme court for fiscal year 2015.~~

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

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

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

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

Sec. 25. K.S.A. 2016 Supp. 8-2107, 8-2110, 20-169, 20-1a15, 20-3021, 21-6614, 21-6614g, 21-6614h, 22-2410, 23-2510, 28-170, 28-172a, 28-177, 28-178, 28-179, 32-1049a, 38-2215, 38-2312, 38-2314, 59-104, 60-729, 60-2001, 60-2203a, 61-2704, 61-4001 and 65-409 are hereby repealed.

Sec. 26. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 26, 2017.

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CHAPTER 81

SENATE BILL No. 23

AN ACT concerning certain state officers and employees; relating to the attorney general, the state bank commissioner, the secretary of labor, the commissioner of insurance and the securities commissioner; criminal investigations and prosecutions by the attorney general; creating the fraud and abuse criminal prosecution fund; establishing the office of the securities commissioner as a division under the jurisdiction of the commissioner of insurance; the Kansas uniform securities act; updating references to the federal securities act of 1933; amending K.S.A. 50-1013 and K.S.A. 2016 Supp. 9-2209, 17-12a302, 17-12a402, 17-12a508, 40-113, 44-5,122, 44-5,124, 44-719 and 75-6301 and repealing the existing sections.

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

New Section 1. (a) There is hereby established in the state treasury the fraud and abuse criminal prosecution fund which shall be administered by the attorney general. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the

attorney general or the attorney general's designee. All moneys credited to the fraud and abuse criminal prosecution fund shall be expended for the prevention and detection of fraud and abuse and for support of criminal investigations and prosecutions within the jurisdiction of the attorney general. In expending moneys from the fund, the attorney general shall give priority to criminal cases referred to the attorney general for investigation or prosecution by or pursuant to:

(1) The office of the securities commissioner of Kansas, established by K.S.A. 75-6301, and amendments thereto;

(2) the criminal anti-fraud division of the department of insurance, established by K.S.A. 40-113, and amendments thereto; and

(3) the abuse, neglect and exploitation unit established by K.S.A. 75-723, and amendments thereto.

(b) On July 1 of each year, or as soon thereafter as unencumbered funds are available, the director of accounts and reports shall transfer to the fraud and abuse criminal prosecution fund an amount equal to: (1) \$200,000 from the securities act fee fund created by K.S.A. 17-12a601, and amendments thereto; and (2) \$200,000 from the insurance department service regulation fund created by K.S.A. 40-112, and amendments thereto. Upon making any such transfer, the director of accounts and reports shall give notice thereof to the attorney general, the commissioner of insurance and the securities commissioner who shall make the proper entries on the records of their respective offices to show such transfers.

(c) The attorney general may apply for, receive and accept moneys from any source for the purposes for which moneys in the fraud and abuse criminal prosecution fund may be expended. Upon receipt of any such moneys, the attorney general shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the fraud and abuse criminal prosecution fund.

New Sec. 2. (a) To promote efficiency in staffing and operations and consistency in enforcement of the criminal law, it is declared to be the public policy of this state that the prosecuting attorneys who bring criminal actions in the name of the state of Kansas, other than county and district attorneys, and the funding therefor should, to the extent practicable, be located in the attorney general's office under the jurisdiction of the attorney general.

(b) Any state agency may enter into agreements with the attorney general to carry out provisions of this section and section 1, and amendments thereto.

New Sec. 3. (a) The attorney general, the commissioner of insurance and the securities commissioner shall coordinate and cooperate to pre-



vent, detect, investigate and criminally prosecute crimes related to insurance and securities.

(b) The criminal anti-fraud unit of the department of insurance and the office of the securities commissioner of Kansas shall, upon request of the attorney general, provide the attorney general access to all records, reports, filings, investigation documents and other records that the attorney general has reasonable suspicion to believe are relevant to any criminal investigation or prosecution of suspected insurance fraud or securities fraud.

(c) The attorney general may, in the attorney general's discretion, assist in any criminal investigation conducted: (1) By the criminal anti-fraud unit of the department of insurance of suspected insurance fraud; or (2) by the office of the securities commissioner of Kansas of suspected securities fraud.

(d) The attorney general may enter into agreements with the commissioner of insurance, the securities commissioner, or both, as deemed necessary to carry out the provisions of this section.

(e) The attorney general may adopt rules and regulations as deemed appropriate for the administration of this section.

Sec. 4. K.S.A. 2016 Supp. 9-2209 is hereby amended to read as follows: 9-2209. (a) The commissioner may exercise the following powers:

(1) Adopt rules and regulations as necessary to carry out the intent and purpose of this act and to implement the requirements of applicable federal law;

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

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

(4) order any licensee or registrant to cease any activity or practice which the commissioner deems to be deceptive, dishonest, violative of state or federal law or unduly harmful to the interests of the public;

(5) exchange any information regarding the administration of this act with any agency of the United States or any state which regulates the licensee or registrant or administers statutes, rules and regulations or programs related to mortgage business and to enter into information sharing arrangements with other governmental agencies or associations rep-

resenting governmental agencies which are deemed necessary or beneficial to the administration of this act;

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

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

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

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

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

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

(12) refer such evidence as may be available concerning any violation of this act or of any rule and regulation or order hereunder to the attorney general, or *in consultation with the attorney general* to the proper county or district attorney, who may in ~~the~~ *such* prosecutor's discretion, with or without such a referral, institute the appropriate criminal proceedings under this act. ~~Upon receipt of such referral, the attorney general or the~~

~~county attorney or district attorney may request that a duly employed attorney of the commissioner prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the commissioner, such employee shall be appointed a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney *the laws of this state*;~~

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

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

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

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

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

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

(19) enter into any informal agreement with any mortgage company for a plan of action to address violations of law. The adoption of an informal agreement authorized by this paragraph shall not be subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto. Any informal agreement authorized by this paragraph shall not be considered an order or other agency action, and shall be considered confidential examination material pursuant to K.S.A. 9-2217, and amendments thereto. All such examina-

tion material shall also be confidential by law and privileged, shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. The provisions of this paragraph shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021; and

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

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

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

(d) No person is excused from attending and testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(e) Except for refund of an excess charge, no liability is imposed under the Kansas mortgage business act for an act done or omitted in conformity with a rule and regulation or written administrative interpretation of the commissioner in effect at the time of the act or omission, notwith-

standing that after the act or omission, the rule and regulation or written administrative interpretation may be determined by judicial or other authority to be invalid for any reason.

Sec. 5. K.S.A. 2016 Supp. 17-12a508 is hereby amended to read as follows: 17-12a508. (a) *Criminal penalties*. (1) Except as provided in subsections (a)(2) through (a)(4), a conviction for an intentional violation of the Kansas uniform securities act, or a rule adopted or order issued under this act, except K.S.A. 17-12a504, and amendments thereto, or the notice filing requirements of K.S.A. 17-12a302 or 17-12a405, and amendments thereto, is a severity level 7, nonperson felony. An individual convicted of violating a rule or order under this act may be fined, but may not be imprisoned, if the individual did not have knowledge of the rule or order.

(2) A conviction for an intentional violation of K.S.A. 17-12a501 or 17-12a502, and amendments thereto, if the violation resulted in a loss of an amount of:

(A) \$1,000,000 or more is a severity level 2, nonperson felony;

(B) at least \$250,000 but less than \$1,000,000 is a severity level 3, nonperson felony;

(C) at least \$100,000 but less than \$250,000 is a severity level 4, nonperson felony;

(D) at least \$25,000 but less than \$100,000 is a severity level 5, nonperson felony; or

(E) less than \$25,000 is a severity level 6, nonperson felony.

(3) A conviction for an intentional violation of K.S.A. 17-12a301, 17-12a401(a), 17-12a402(a), 17-12a403(a) or 17-12a404(a), and amendments thereto, is:

(A) A severity level 5, nonperson felony if the violation resulted in a loss of \$100,000 or more;

(B) a severity level 6, nonperson felony if the violation resulted in a loss of at least \$25,000 but less than \$100,000; or

(C) a severity level 7, nonperson felony if the violation resulted in a loss of less than \$25,000.

(4) A conviction for an intentional violation of:

(A) K.S.A. 17-12a404(e) or 17-12a505, and amendments thereto, or an order to cease and desist issued by the administrator pursuant to K.S.A. 17-12a412(c) or 17-12a604(a), and amendments thereto, is a severity level 5, nonperson felony.

(B) K.S.A. 17-12a401(c), 17-12a403(c) or 17-12a506, and amendments thereto, is a severity level 6, nonperson felony.

(C) K.S.A. 17-12a402(d) or 17-12a403(d), and amendments thereto, is a severity level 7, nonperson felony.

(5) Any violation of K.S.A. 17-12a301, 17-12a401(a), 17-12a402(a), 17-12a403(a), 17-12a404(a), 17-12a501 or 17-12a502, and amendments

thereto, resulting in a loss of \$25,000 or more shall be presumed imprisonment.

(6) A conviction for an intentional violation of the Kansas uniform securities act, K.S.A. 17-12a101 et seq., and amendments thereto, committed against an elder person, as defined in K.S.A. 50-676, and amendments thereto, shall be ranked on the nondrug scale at one severity level above the appropriate level for the underlying or completed crime, if the trier of fact finds that the victim was an elder person at the time of the crime. It shall not be a defense under this paragraph that the defendant did not know the age of the victim or reasonably believed that the victim was not an elder person.

(7) When amounts are obtained in violation of this act under one scheme or continuing course of business, whether from the same or several sources, the conduct may be considered as one continuing offense, and the amounts aggregated in determining the grade of the offense.

(b) *Statute of limitations.* (1) Except as provided by K.S.A. 2016 Supp. 21-5107(e), and amendments thereto, no prosecution for any crime under this act may be commenced more than 10 years after the alleged violation if the victim is the Kansas public employees retirement system and no prosecution for any other crime under this act may be commenced more than five years after the alleged violation.

(2) If a crime under this act is a continuing offense, the statute of limitations does not begin to run until the last act in the scheme or course of business is completed. Nothing in this subsection shall prevent the exclusion of a time period pursuant to K.S.A. 2016 Supp. 21-5107(e), and amendments thereto.

(3) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution, except that no prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(c) *Criminal reference.* The administrator ~~may shall prepare and~~ refer such evidence as may be available concerning *criminal* violations of this act or of any rules and regulations or order hereunder to the attorney general, or *in consultation with the attorney general* to the proper county or district attorney, who may, ~~in the such~~ prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under ~~this act the laws of this state.~~ Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the administrator prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the administrator, such employee shall be appointed a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all

~~the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney. If an attorney employed by the administrator acts as a special prosecutor, The administrator may pay extradition and witness expenses and other costs associated with the case. The administrator and persons employed by the administrator shall assist in the prosecution of criminal cases as requested by the attorney general or county or district attorney.~~

(d) *No limitation on other criminal enforcement.* This act does not limit the power of this state to punish a person for conduct that constitutes a crime under other laws of this state.

Sec. 6. K.S.A. 2016 Supp. 40-113 is hereby amended to read as follows: 40-113. (a) There is hereby established within the insurance department a criminal anti-fraud division of the Kansas insurance department. The criminal anti-fraud division shall accept information and complaints regarding possible insurance fraud. The criminal anti-fraud division shall also investigate possible violations of Kansas criminal statutes pertaining to and related to insurance fraud. The criminal anti-fraud division shall prepare *and refer* criminal cases ~~for prosecution by special assistant attorneys general and shall assist in prosecution of those cases to the attorney general, or in consultation with the attorney general to the proper county or district attorney, who may, in such prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under the laws of this state. The commissioner may pay extradition and witness expenses and other costs associated with the case.~~

(b) Complaints of insurance fraud shall be accepted from Kansas consumers, other divisions within the insurance department, other state and federal law enforcement agencies, and insurance companies. The criminal anti-fraud division's investigators shall prepare clear and concise reports concerning investigations and preserve evidence.

(c) The criminal anti-fraud division ~~will~~ *shall* assist in the preparation and presentation of criminal cases ~~and as requested by the attorney general or county or district attorney. The criminal anti-fraud division shall perform other such duties in the prevention, detection, investigation and prosecution of insurance fraud as may be necessary. Said preparation should~~ *Such preparation may* include affidavits, interviews, preservation of evidence and securing the attendance of individuals involved in the case. In presenting the prosecution's case, members of the criminal anti-fraud division ~~shall~~ *may* testify as to the facts of the case.

Sec. 7. K.S.A. 2016 Supp. 44-5,122 is hereby amended to read as follows: 44-5,122. (a) If the director or the assistant attorney general assigned to the division of workers compensation has probable cause to

believe a fraudulent or abusive act or practice or any other violation of the workers compensation act is of such significance as to constitute a crime, a copy of any order, all investigative reports and any evidence in the possession of the division of workers compensation which relates to such act, practice or violation may be forwarded to the prosecuting attorney of the county in which the act or any of the acts were performed which constitute the fraudulent or abusive act or practice or other violation. Any case which a county *or district* attorney fails to prosecute within 90 days shall be returned promptly to the director. The assistant attorney general assigned to the division of workers compensation shall then ~~prosecute the case~~ *notify the attorney general* and if, in the opinion of the ~~assistant~~ attorney general, the acts or practices involved ~~still~~ warrant prosecution, *the attorney general shall prosecute the case.*

(b) Any person who believes a violation of the workers compensation act has been or is being committed may notify the division of workers compensation of the department of labor immediately after discovery of the alleged violation. The person shall send to the division of workers compensation, in a manner prescribed by the director, the information describing the facts of the alleged violation and such additional information relating to the alleged violation as the director may require. The director shall cause an evaluation of the facts surrounding the alleged violation to be made to determine the extent, if any, to which violations of the workers compensation act exist, which shall include a review and investigation by the assistant attorney general assigned to the division to the extent as may be deemed necessary to determine whether there has been a violation of the workers compensation act.

Sec. 8. K.S.A. 2016 Supp. 44-5,124 is hereby amended to read as follows: 44-5,124. The attorney general shall appoint, with the approval of the secretary of labor, an assistant attorney general who shall be within the division of workers compensation of the department of labor and who shall receive an annual salary fixed by the attorney general with the approval of the secretary of labor and the governor. The operating expenditures for the assistant attorney general shall be financed by funds available for the administration of the workers compensation act. The duties of the assistant attorney general shall include directing or assisting in the investigation and administrative prosecution of alleged fraudulent or abusive acts or practices or other violations of K.S.A. 44-5,120 through 44-5,122, and amendments thereto, or of any other provisions of the workers compensation act, and in the investigation and *referral to the attorney general* for criminal prosecution of any such acts, practices or violations which constitute crimes.

Sec. 9. K.S.A. 2016 Supp. 44-719 is hereby amended to read as follows: 44-719. (a) Any person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact,



to obtain or increase any benefit or other payment under this act, either for such person or for any other person, shall be guilty of theft and shall be punished in accordance with the provisions of K.S.A. 2016 Supp. 21-5801, and amendments thereto.

(b) Any employing unit or any officer or agent for any employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this act, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than 60 days, or both such fine and imprisonment. Each such false statement or representation or failure to disclose a material fact and each day of such failure or refusal shall constitute a separate offense.

(c) Any person who willfully violates any provision of this act or any rule and regulation adopted by the secretary hereunder, the violation of which is made unlawful or the observance of which is required under the terms of this act, and for which a penalty is neither prescribed herein or provided by any other applicable statute, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than 60 days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d) (1) Any person who has received any amount of money as benefits under this act while any conditions for the receipt of benefits imposed by this act were not fulfilled in such person's case, or while such person was disqualified from receiving benefits, shall in the discretion of the secretary, either be liable to have such amount of money deducted from any future benefits payable to such person under this act or shall be liable to repay to the secretary for the employment security fund an amount of money equal to the amount so received by such person. After a period of five years, the secretary may waive the collection of any such amount of money when the secretary has determined that the payment of such amount of money was not due to fraud, misrepresentation, or willful nondisclosure on the part of the person receiving such amount of money, and the collection thereof would be against equity or would cause extreme hardship with regard to such person. The collection of benefit overpayments which were made in the absence of fraud, misrepresentation or willful nondisclosure of required information on the part of the person who received such overpayments, may be waived by the secretary at any time if such person met all eligibility requirements of the employment security law during the weeks in which the overpayments were made.

(2) Any benefit erroneously paid which is not repaid shall bear interest at the rate of 1.5% per month or fraction of a month. If the benefit was received as a result of fraud, misrepresentation or willful nondisclosure of required information, interest shall accrue from the date of the final determination of overpayment until repayment plus interest is received by the secretary. If the overpayment was without fraud, misrepresentation or willful nondisclosure of required information, interest shall accrue upon any balance which remains unpaid two years after the final determination of overpayment is made and shall continue until payment plus accrued interest is received by the secretary. Interest collected pursuant to this section shall be paid into the special employment security fund, except that interest collected on federal administrative programs shall be returned to the federal government. Upon written request and for good cause shown, the secretary may abate any interest or portion thereof provided for by this subsection (d)(2). Interest accrued may not be paid by money deducted from any future benefits payable to such persons liable for any overpayment.

(3) Unless collection is waived by the secretary, any such amount shall be collectible in the manner provided in K.S.A. 44-717, and amendments thereto, for the collection of past due contributions. The courts of this state shall in like manner entertain actions to collect amounts of money erroneously paid as benefits, or unlawfully obtained, for which liability has accrued under the employment security law of any other state or of the federal government.

(4) In cases involving the collection of debts arising from the employment security law, the actual amount received from the United States department of treasury under the treasury offset program or its successor shall be credited to the overpayment and any fee charged by the department of treasury shall be borne by the debtor.

(e) Any employer or person who willfully fails or refuses to pay contributions, payments in lieu of contributions or benefit cost payments or attempts in any manner to evade or defeat any such contributions, payments in lieu of contributions or benefit cost payments or the payment thereof, shall be liable for the payment of such contributions, payments in lieu of contributions or benefit cost payments and, in addition to any other penalties provided by law, shall be liable to pay a penalty equal to the total amount of the contributions, payments in lieu of contributions or benefit cost payments evaded or not paid.

(f) (1) It shall be unlawful for an employing unit to knowingly obtain or attempt to obtain a reduced liability for contributions under ~~subsection (b)(1) of K.S.A. 44-710a(b)(1)~~, and amendments thereto, through manipulation of the employer's workforce, or for an employing unit that is not an employing unit at the time it acquires the trade or business, to knowingly obtain or attempt to obtain a reduced liability for contributions under ~~subsection (b)(5) of K.S.A. 44-710a(b)(5)~~, and amendments thereto,

or any other provision of K.S.A. 44-710a, and amendments thereto, related to determining the assignment of a contribution rate, when the sole or primary purpose of the business acquisition was for the purpose of obtaining a lower rate of contributions, or for a person to knowingly advise an employing unit in such a way that results in such a violation, such employing unit or person shall be subject to the following penalties:

(A) If the person is an employer, then such employer shall be assigned the highest rate assignable under K.S.A. 44-710a, and amendments thereto, for the rate year during which such violation or attempted violation occurred and the three rate years immediately following this rate year. However, if the employer's business is already at such highest rate for any year, or if the amount of increase in the employer's rate would be less than 2% for such year, then a penalty rate of contributions of 2% of taxable wages shall be imposed for such year. Any moneys resulting from the difference of the computed rate and the penalty rate 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 special employment security fund.

(B) If the person is not an employer, such person shall be subject to a civil money penalty of not more than \$5,000. 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 special employment security fund.

(2) For purposes of this subsection, the term "knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(3) For purposes of this subsection, the term "violates or attempts to violate" includes, but is not limited to, any intent to evade, misrepresentation or willful nondisclosure.

(4) (A) In addition to, or in lieu of, any civil penalty imposed by paragraph (1) if, the director of employment security or a special assistant attorney general assigned to the department of labor, has probable cause to believe that a violation of this subsection (f) should be prosecuted as a crime, a copy of any order, all investigative reports and any evidence in the possession of the division of employment security which relates to such violation, may be forwarded to the prosecuting attorney in the county in which the act or any of the acts were performed which constitute a violation of this subsection (f). Any case which a county or district attorney fails to prosecute within 90 days shall be returned promptly to the director of employment security. The special assistant attorney general assigned to the Kansas department of labor shall then ~~prosecute the case; notify the attorney general and~~ if, in the opinion of the ~~special~~

~~assistant~~ attorney general, the acts or practices involved ~~still~~ warrant prosecution, *the attorney general shall prosecute the case.*

(B) Violation of this subsection (f) shall be a level 9, nonperson felony.

(5) The secretary shall establish procedures to identify the transfer or acquisition of a business for purposes of this section.

(6) For purposes of subsection (f):

(A) "Person" has the meaning given such term by section 7701(a)(1) of the internal revenue code of 1986;

(B) "trade or business" shall include the employer's workforce; and

(C) the provisions of K.S.A. 2016 Supp. 21-5211 and 21-5212, and amendments thereto, shall apply.

(7) This subsection (f) shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulation issued by the United States department of labor.

Sec. 10. K.S.A. 50-1013 is hereby amended to read as follows: 50-1013. (a) Any person who willfully violates any provision of this act or knowingly violates any cease and desist order issued under this act commits a severity level 7, nonperson felony. Any violation of this act committed on or after July 1, 1993, resulting in a loss of \$25,000 or more, regardless of its location on the sentencing grid block, shall have a presumptive sentence of imprisonment.

(b) Prosecution for any crime under this act must be commenced within five years after the alleged violation. A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(c) ~~The commissioner may shall prepare and refer such evidence as may be available concerning criminal violations of this act or of any rule and regulation or order hereunder to the attorney general, or in consultation with the attorney general to the proper county or district attorney, who may, in the such prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under this act the laws of this state. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the commissioner prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the commissioner, such employee shall be appointed special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys, and such other powers and duties as are lawfully delegated to such special prosecutors by the attorney general or the~~

~~county attorney or district attorney~~ *The commissioner may pay extradition and witness expenses and other costs associated with the case. The commissioner and persons employed by the administrator shall assist in the prosecution of criminal cases as requested by the attorney general or county or district attorney.*

Sec. 11. K.S.A. 2016 Supp. 75-6301 is hereby amended to read as follows: 75-6301. (a) There is hereby established *under the jurisdiction of the commissioner of insurance a division to be known as the office of the securities commissioner of Kansas. The office shall be administered by the securities commissioner of Kansas who shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of the governor.* The securities commissioner shall be appointed by the ~~governor~~ *commissioner of insurance*, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, shall have special training and qualifications for such position and shall receive such compensation as may be fixed by the ~~governor~~ *commissioner of insurance. The commissioner of insurance may remove the securities commissioner for official misconduct.* Except as provided by subsection (b) and K.S.A. 46-2601, and amendments thereto, no person appointed as securities commissioner shall exercise any power, duty or function as securities commissioner until confirmed by the senate.

(b) (1) *The insurance commissioner shall appoint a person as securities commissioner no later than September 1, 2017, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, to serve an initial term ending on January 14, 2019. Upon the expiration of the initial term under this section, and upon the expiration of each term thereafter, the commissioner of insurance shall appoint a person as securities commissioner, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, to serve a four-year term running concurrently with the term of such commissioner of insurance as provided by K.S.A. 40-106, and amendments thereto. Upon occurrence of a vacancy in the office of securities commissioner, the commissioner of insurance shall appoint a successor. If the vacancy occurs before the expiration of a term of office, the appointment shall be for the unexpired term and shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto.*

(2) *The securities commissioner shall devote full time to the performance of the duties of the office of the securities commissioner.*

(c) The securities commissioner may appoint directors *and other employees* within the office of the securities commissioner as determined necessary by the securities commissioner to effectively carry out the mission of the office. All directors appointed after the effective date of this act shall be in the unclassified service under the Kansas civil service act, shall have special training and qualifications for such positions, shall serve

at the pleasure of the securities commissioner and shall receive compensation fixed by the securities commissioner and approved by the ~~governor~~ *commissioner of insurance*.

~~(c)~~(d) Nothing in subsection ~~(b)~~ (c) shall affect the classified status of any person employed in the office of the securities commissioner on the day immediately preceding the effective date of this act. The provisions of this subsection shall not be construed to limit the powers of the securities commissioner pursuant to K.S.A. 75-2948, and amendments thereto.

(e) *The office of the securities commissioner of Kansas shall cooperate with the insurance department to consolidate administrative functions and cross-appoint such employees as deemed necessary to provide efficiency. The commissioner of insurance and the securities commissioner are hereby authorized to enter into agreements and adopt rules and regulations as necessary to administer the provisions of this subsection.*

Sec. 12. K.S.A. 2016 Supp. 17-12a302 is hereby amended to read as follows: 17-12a302. (a) *Required filing of records.* With respect to a federal covered security, as defined in section 18(b)(2) of the securities act of 1933 (15 U.S.C. § 77r(b)(2)), that is not otherwise exempt under K.S.A. 17-12a201 through 17-12a203, and amendments thereto, a rule adopted or order issued under this act may require the filing of any or all of the following records:

(1) Before the initial offer of a federal covered security in this state, all records that are part of a federal registration statement filed with the securities and exchange commission under the securities act of 1933 and a consent to service of process complying with K.S.A. 17-12a611, and amendments thereto, signed by the issuer and the payment of a fee not to exceed \$2,500;

(2) after the initial offer of the federal covered security in this state, all records that are part of an amendment to a federal registration statement filed with the securities and exchange commission under the securities act of 1933; and

(3) to the extent necessary or appropriate to compute fees, a report of the value of the federal covered securities sold or offered to persons present in this state, if the sales data are not included in records filed with the securities and exchange commission and payment of a fee not to exceed \$2,500.

(b) *Notice filing effectiveness and renewal.* A notice filing under subsection (a) is effective for one year commencing on the later of the notice filing or the effectiveness of the offering filed with the securities and exchange commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the securities and exchange commission that are required by rule or order under this act to be filed and by paying a renewal fee not to exceed \$2,500.

A previously filed consent to service of process complying with K.S.A. 17-12a611, and amendments thereto, may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

(c) *Notice filings for federal covered securities under section 18(b)(4)(~~E~~)(F)*. With respect to a security that is a federal covered security under section 18(b)(4)(~~E~~)(F) of the securities act of 1933 (15 U.S.C. § 77r(b)(4)(~~E~~)(F)), a rule under this act may require: (1) A notice filing by or on behalf of an issuer to include a copy of form D, including the appendix, as promulgated by the securities and exchange commission, and a consent to service of process complying with K.S.A. 17-12a611, and amendments thereto, signed by the issuer, not later than 15 days after the first sale of the federal covered security in this state; and (2) the payment of a fee not to exceed \$2,500 for a timely filing and the payment of a fee not to exceed \$5,000 for any late filing.

(d) *Stop orders*. Except with respect to a federal security under section 18(b)(1) of the securities act of 1933 (15 U.S.C. § 77r(b)(1)), if the administrator finds that there is a failure to comply with a notice or fee requirement of this section, the administrator may issue a stop order suspending the offer and sale of a federal covered security in this state. If the deficiency is corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by the administrator other than a late filing fee.

Sec. 13. K.S.A. 2016 Supp. 17-12a402 is hereby amended to read as follows: 17-12a402. (a) *Registration requirement*. It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection (b).

(b) *Exemptions from registration*. The following individuals are exempt from the registration requirement of subsection (a):

(1) An individual who represents a broker-dealer in effecting transactions in this state limited to those described in section 15(i)(3) of the securities exchange act of 1934 (15 U.S.C. § 78o(i)(3));

(2) an individual who represents a broker-dealer that is exempt under K.S.A. 17-12a401(b) or (d), and amendments thereto;

(3) an individual who represents an issuer with respect to an offer or sale of the issuer's own securities or those of the issuer's parent or any of the issuer's subsidiaries, and who is not compensated in connection with the individual's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;

(4) an individual who represents an issuer and who effects transactions in the issuer's securities exempted by K.S.A. 17-12a202, and amend-

ments thereto, other than K.S.A. 17-12a202(11) and (14), and amendments thereto;

(5) an individual who represents an issuer that effects transactions solely in federal covered securities of the issuer, but an individual who effects transactions in a federal covered security under section 18(b)(3) or 18(b)(4)(~~E~~)(F) of the securities act of 1933 (15 U.S.C. § 77r(b)(3) or 77r(b)(4)(~~E~~)(F)) is not exempt if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;

(6) an individual who represents a broker-dealer registered in this state under K.S.A. 17-12a401(a), and amendments thereto, or exempt from registration under K.S.A. 17-12a401(b), and amendments thereto, in the offer and sale of securities for an account of a nonaffiliated federal covered investment adviser with investments under management in excess of \$100,000,000 acting for the account of others pursuant to discretionary authority in a signed record;

(7) an individual who represents an issuer in connection with the purchase of the issuer's own securities;

(8) an individual who represents an issuer and who restricts participation to performing clerical or ministerial acts; or

(9) any other individual exempted by rule adopted or order issued under this act.

(c) *Registration effective only while employed or associated.* The registration of an agent is effective only while the agent is employed by or associated with a broker-dealer registered under this act or an issuer that is offering, selling, or purchasing its securities in this state.

(d) *Limit on employment or association.* It is unlawful for a broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection (a) or exempt from registration under subsection (b).

(e) *Limit on affiliations.* An individual may not act as an agent for more than one broker-dealer or one issuer at a time, unless the broker-dealer or the issuer for which the agent acts are affiliated by direct or indirect common control or are authorized by rule or order under this act.

Sec. 14. K.S.A. 50-1013 and K.S.A. 2016 Supp. 9-2209, 17-12a302, 17-12a402, 17-12a508, 40-113, 44-5,122, 44-5,124, 44-719 and 75-6301 are hereby repealed.



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

Approved June 1, 2017.

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CHAPTER 82

HOUSE BILL No. 2102

AN ACT concerning counties; dealing with the board of county commissioners; concerning certain appointments by the board of county commissioners; amending K.S.A. 19-206 and K.S.A. 2016 Supp. 75-2550 and repealing the existing sections.

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

Section 1. K.S.A. 19-206 is hereby amended to read as follows: 19-206. ~~In all counties having more than eight thousand (8,000) inhabitants,~~ The board of county commissioners shall ~~and in all other counties may~~ meet in regular session, at the county seat ~~of the county, on the first Monday in~~ *on such days and at such times each month during the year, as established by resolution adopted by the board* and in special session on the call of the ~~chairman~~ *chairperson* for the transaction of any business ~~general or special,~~ at the request of a majority of the members on the board, ~~as often as the interest and business of the county may demand.~~ The nature of the business to be transacted at any ~~call~~ *special meeting to* shall be governed by the matters and things set out in the call *for such meeting.*

Sec. 2. K.S.A. 2016 Supp. 75-2550 is hereby amended to read as follows: 75-2550. (a) The system board shall consist of one or more representatives selected by each of the boards participating in the regional system, and one or more representatives appointed by the ~~governor~~ *board of county commissioners of each county that is a part of the regional system* to represent territory not within the district of participating library board but within the territory of the regional system of cooperating libraries. The petition provided for in K.S.A. 75-2549, and amendments thereto, may propose the number of representatives of each such board, but the determination thereof shall be made by the state board when approving such petition. The state board shall consider any petition presented to it as provided in this act and if it approves such petition it shall adopt a resolution officially designating such particular regional system of cooperating libraries and describing the territory thereof which shall include one or more counties but shall exclude the territory of any taxing district which regularly levies 0.25 or more mills of tax for the support of a public library upon the request of the governing body of the district making such levy. Any district so excluded may later petition to be added to and included in the regional system of cooperating libraries from which

it was excluded and such petition shall be prepared and processed as other petitions provided for by this act. Additional counties may be added to the territory of any regional system of cooperating libraries upon petition by a library board located in such county and such a petition shall be prepared and processed as is provided in this act for initial petitions; except that the prior approval in writing of a petition under this sentence shall be obtained by the petitioning board from the regional board and attached to the petition when submitted to the state board. Within two weeks after receiving notice of approval of a petition provided for under this act the board of each participating library and the ~~governor~~ *board of county commissioners of the county of residence of such appointee*, shall select the number of representatives determined by the state board and shall certify the names and addresses of such representatives to the state librarian. The term of each such representative may be proposed in the petition provided under K.S.A. 75-2549, and amendments thereto, but shall not exceed four years, and the final determination of duration of terms shall be made by the state board at the time of approval of the petition.

(b) Any taxing district which regularly levies 0.25 mill or more of tax for the support of a public library, and which taxing district has been included in a regional system, may petition to be excluded from the regional system. Such petition shall be made and presented to the state board. The state board shall consider any such petition and if such taxing district meets the requirement for making such a petition and if excluding such taxing district from the regional system will do no manifest harm thereto, the state board may enter its order excluding and detaching such taxing district from the regional system and making such adjustment to the organization of such regional system as may be appropriate to continue the operation of the regional system without interruption.

(c) The system board shall have the authority and power to:

(1) Operate a system of library service to and for participating libraries;

(2) the system board may purchase service from a participating library for the benefit of the regional system of cooperating libraries;;

(3) the system board may contribute to or receive contribution from any participating library, and may receive and utilize any gift of funds or property donated to the regional system of cooperating libraries;;

(4) the system board may contract with any one or more participating libraries and the board of each participating library is hereby authorized to contract with the system board or with any one or more other boards, but any such contract shall provide that the same shall not take effect until approved by the state librarian;;

(5) the system board may contract with any other system board or any board, but any such contract shall provide that the same shall not take effect until approved by the state librarian;; and

(6) employ a system librarian and such other persons as the regional board may find convenient or necessary.

Sec. 3. K.S.A. 19-206 and K.S.A. 2016 Supp. 75-2550 are hereby repealed.

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

Approved June 2, 2017.

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CHAPTER 83

HOUSE BILL No. 2128

AN ACT concerning the Kansas sexually violent predator act; relating to examinations; transitional release; conditional release; amending K.S.A. 2016 Supp. 59-29a08, 59-29a10 and 59-29a18 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 59-29a08 is hereby amended to read as follows: 59-29a08. (a) Each person committed under the Kansas sexually violent predator act shall have a current examination of the person’s mental condition made once every year. The secretary shall provide the ~~committed~~ person with an annual written notice of the person’s right to petition the court for release over the secretary’s objection. The notice shall contain a waiver of rights. The secretary shall also forward the annual report, as well as the annual notice and waiver form, to the court that committed the person under the Kansas sexually violent predator act. *The court shall file the notice and the report upon receipt.*

*(b) The person must file a request for an annual review hearing within 45 days after the date the court files the annual written notice. Failure to request a hearing within 45 days pursuant to this subsection waives the person’s right to a hearing until the next annual report is filed by the court. A contested annual review hearing for transitional release shall consist of consideration about whether the person is entitled to transitional release. Only a person in transitional release shall be permitted to petition for conditional release. Only a person in conditional release shall be permitted to petition for final discharge.*

*(c) The person may retain, or if the person is indigent and so requests the court may appoint a ~~qualified professional person to examine such person, an examiner pursuant to K.S.A. 60-235, and amendments thereto, and such expert or professional person~~ the examiner shall have access to all available records concerning the person. ~~The court that committed the person under the Kansas sexually violent predator act shall then conduct an annual review of the status of the committed person’s mental~~*

~~condition.~~ *If the person is indigent and makes a request for an examiner, the court shall determine whether the services are necessary and shall determine the reasonable compensation for such services. The court, before appointing an examiner, shall consider factors including the person's compliance with institutional requirements and the person's participation in treatment to determine whether the person's progress justifies the costs of an examination. The appointment of an examiner is discretionary.*

(d) *At the annual review hearing, the burden of proof shall be upon the person to show probable cause to believe the person's mental abnormality or personality disorder has significantly changed so that the person is safe to be placed in transitional release. The report, or a copy thereof, of the findings of a qualified expert shall be admissible into evidence in the annual review hearing in the same manner and with the same force and effect as if the qualified expert had testified in person. If the person does not participate in the prescribed treatment plan, the person is presumed to be unable to show probable cause to believe the person is safe to be released.*

(e) ~~The committed~~ *person shall have a right to have an attorney represent the person at the annual review hearing to determine probable cause, but the person is not entitled to be present at the hearing.*

~~(b) Nothing contained in the Kansas sexually violent predator act shall prohibit the person in conditional release from otherwise petitioning the court for discharge at the annual review hearing.~~

(f) *If the person does not file a petition requesting a hearing pursuant to subsection (b), the court that committed the person under the Kansas sexually violent predator act shall then conduct an in camera annual review of the status of the person's mental condition and determine whether the person's mental abnormality or personality disorder has significantly changed so that an annual review hearing is warranted. The court shall enter an order reflecting its determination.*

~~(e)(g)~~ (g) *If the court at the annual review hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so significantly changed so that the person is safe to be placed in transitional release, then the court shall set a hearing for transitional release on the issue. The committed person shall be entitled to be present and entitled to the benefit of all constitutional protections that were afforded the person pursuant to K.S.A. 50-29a06, and amendments thereto assistance of counsel. The attorney general shall represent the state and shall have a right to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate the person on the person's behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing for transitional release shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such*

that the person is not safe to be placed in transitional release and if transitionally released is likely to engage in *repeat* acts of sexual violence.

~~(d)~~(h) If, after the hearing *for transitional release*, the court is convinced beyond a reasonable doubt that the person is not appropriate for transitional release, the court shall order that the person remain in secure commitment. Otherwise, the court shall order that the person be placed in transitional release.

~~(e)~~(i) If the court determines that the person should be placed in transitional release, the secretary shall transfer the person to the transitional release program. The secretary may contract for services to be provided in the transitional release program. During any period the person is in transitional release, that person shall comply with any rules or regulations the secretary may establish for this program and every directive of the treatment staff of the transitional release program.

~~(f)~~(j) At any time during which the person is in the transitional release program and the treatment staff determines that the person has violated any rule, regulation or directive associated with the transitional release program, the treatment staff may remove the person from the transitional release program and return the person to the secure commitment facility, or may request the district court to issue an emergency *ex parte* order directing any law enforcement officer to take the person into custody and return the person to the secure commitment facility. Any such request may be made verbally or by telephone, but shall be followed in written, facsimile or electronic form delivered to the court by not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic request was made.

~~(g)~~(k) Upon the person being returned to the secure commitment facility from the transitional release program, notice thereof shall be given by the secretary to the court. The court shall set the matter for a hearing within two working days of receipt of notice of the person's having been returned to the secure commitment facility and cause notice thereof to be given to the attorney general, the person and the secretary. The attorney general shall have the burden of proof to show probable cause that the person violated conditions of transitional release. The hearing shall be to the court. At the conclusion of the hearing the court shall issue an order returning the person to the secure commitment facility or to the transitional release program, and may order such other further conditions with which the person must comply if the person is returned to the transitional release program.

(l) *For the purposes of this section, if the person is indigent and without counsel, the court shall appoint counsel to assist such person.*

Sec. 2. K.S.A. 2016 Supp. 59-29a10 is hereby amended to read as follows: 59-29a10. (a) (1) If the secretary determines that the person's mental abnormality or personality disorder has ~~so~~ *significantly* changed

so that the person is not likely to engage in repeat acts of sexual violence if placed in transitional release, the secretary shall authorize the person to petition the court for transitional release. The petition shall be served upon the court and the attorney general. The court, upon service of the petition for transitional release, shall issue notice of a hearing to be scheduled within 30 days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of ~~such attorney's~~ *the attorney general's* choice. The burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if placed in transitional release is likely to engage in repeat acts of sexual violence.

~~(b)(2)~~ If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not sufficiently safe to warrant transitional release, the court shall order that the person remain in secure commitment. Otherwise, the court shall order that the person be placed in transitional release.

~~(c)(3)~~ The provisions of K.S.A. 59-29a08(e), (f) and (g) (i), (j) and (k), and amendments thereto, shall apply to a transitional release pursuant to this section.

*(b) (1) If the secretary determines that the person's mental abnormality or personality disorder has significantly changed so that the person is not likely to engage in repeat acts of sexual violence if placed in conditional release, the secretary shall authorize the person to petition the court for conditional release. The petition shall be served upon the court and the attorney general. The court, upon service of the petition for conditional release, shall issue notice of a hearing to be scheduled within 30 days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if placed in conditional release is likely to engage in repeat acts of sexual violence.*

*(2) If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not sufficiently safe to warrant conditional release, the court shall order that the person remain either in secure commitment or in transitional release. Otherwise, the court shall order that the person be placed in conditional release.*

*(3) The provisions of K.S.A. 59-29a18(h) and 59-29a19(a), (d) and (e), and amendments thereto, shall apply to a conditional release pursuant to this section.*

Sec. 3. K.S.A. 2016 Supp. 59-29a18 is hereby amended to read as

follows: 59-29a18. (a) During any period the person is in transitional release, the person committed under this act at least annually, and at any other time deemed appropriate by the treatment staff, shall be examined by the treatment staff to determine if the person's mental abnormality or personality disorder has ~~so~~ significantly changed so as to warrant such person being considered for conditional release. ~~The treatment staff shall forward a report of its examination to the court. The court shall review the same. If the court determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be placed in conditional release, the court shall then set a hearing on the issue. The attorney general shall have the burden of proof to show beyond a reasonable doubt that the person's mental abnormality or personality disorder remains such that the person is not safe to be at large and that if placed on conditional release is likely to engage in repeat acts of sexual violence. The person shall have the same rights as enumerated in K.S.A. 59-29a06, and amendments thereto. Subsequent to either a court review or a hearing, the court shall issue an appropriate order with findings of fact. The order of the court shall be provided to the attorney general, the person and the secretary. The secretary shall provide the person with a written notice of the person's right to petition the court for release over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall also forward the report, as well as the notice and waiver form, to the court that committed the person under the Kansas sexually violent predator act. The court shall file the notice and the report upon receipt.~~

(b) *The person must file a request for an annual review hearing within 45 days after the date the court files the annual written notice pursuant to subsection (a). Failure to request a hearing within 45 days pursuant to this subsection shall waive the person's right to a hearing until the next annual report is filed by the court. A contested annual review hearing for conditional release shall consist of consideration about whether the person is entitled to conditional release from transitional release. Only a person in transitional release shall be permitted to petition for conditional release. No person in transitional release shall be permitted to petition for final discharge.*

(c) *The person may retain, or if the person is indigent and so requests, the court may appoint, an examiner pursuant to K.S.A. 60-235, and amendments thereto, and the examiner shall have access to all available records concerning the person. If the person is indigent and makes a request for an examiner, the court shall determine whether the services are necessary and shall determine the reasonable compensation for such services. The court, before appointing an examiner, shall consider factors including the person's compliance with institutional requirements and the person's participation in treatment to determine whether the person's pro-*

gress justifies the costs of an examination. The appointment of an examiner is discretionary.

(d) At the annual review hearing, the burden of proof shall be upon the person to show probable cause to believe the person's mental abnormality or personality disorder has significantly changed so that the person is safe to be placed in conditional release. The report, or a copy thereof, of the findings of a qualified expert shall be admissible into evidence in the annual review hearing in the same manner and with the same force and effect as if the qualified expert had testified in person. If the person does not participate in the prescribed treatment plan, the person is presumed to be unable to show probable cause to believe the person is safe to be released.

(e) The person shall have a right to have an attorney represent the person at the annual review hearing to determine probable cause, but the person is not entitled to be present at the hearing.

(f) If the person does not file a petition requesting a hearing pursuant to subsection (b), the court that committed the person under the Kansas sexually violent predator act shall then conduct an *in camera* annual review of the status of the person's mental condition and determine whether the person's mental abnormality or personality disorder has significantly changed so that an annual review hearing is warranted. The court shall enter an order reflecting its determination.

(g) If the court at the annual review hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has significantly changed so that the person is safe to be placed in conditional release, then the court shall set a hearing for conditional release on the issue. The person shall be entitled to be present and entitled to the assistance of counsel. The attorney general shall represent the state and shall have a right to have the person evaluated by experts chosen by the state. The person shall also have the right to have experts evaluate the person on the person's behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing for conditional release shall be upon the state to prove beyond a reasonable doubt that the person's mental abnormality or personality disorder remains such that the person is not safe to be placed in conditional release and if conditionally released is likely to engage in repeat acts of sexual violence.

(h) If, after the hearing for conditional release, the court is convinced beyond a reasonable doubt that the person is not appropriate for conditional release, the court shall order that the person remain either in secure commitment or in transitional release. Otherwise, the court shall order that the person be placed on conditional release.

(i) Subsequent to either a court review or a hearing, the court shall issue an appropriate order with findings of fact. The order of the court shall be provided to the attorney general, the person and the secretary.



(j) *For the purposes of this section, if the person is indigent and without counsel, the court shall appoint counsel to assist such person.*

Sec. 4. K.S.A. 2016 Supp. 59-29a08, 59-29a10 and 59-29a18 are hereby repealed.

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

Approved June 2, 2017.

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CHAPTER 84

SENATE BILL No. 30

AN ACT concerning taxation; relating to sales and compensating use tax, collection and distribution thereof, STAR bonds; income taxation, determination of Kansas adjusted gross income, modifications, rates, itemized deductions and credits; amending K.S.A. 2016 Supp. 12-17,165, 12-17,179, 79-32,110, 79-32,117, 79-32,120 and 79-32,138 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 79-32,269.

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

New Section 1. (a) There shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 12.5% for tax year 2018; an amount equal to 18.75% for tax year 2019; and an amount equal to 25% for tax year 2020, and all tax years thereafter, of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to 26 U.S.C. § 21 for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law.

(c) No credit provided under this section shall be allowed to any individual who fails to provide a valid social security number issued by the social security administration, to such individual, the individual's spouse and every dependent of the individual.

Sec. 2. K.S.A. 2016 Supp. 12-17,165 is hereby amended to read as follows: 12-17,165. (a) When a city or county proposes to establish a STAR bond project district, within an eligible area, the city or county shall adopt a resolution stating that the city or county is considering the establishment of a STAR bond project district. Such resolution shall:

(1) Give notice that a public hearing will be held to consider the establishment of a STAR bond project district and fix the date, hour and place of such public hearing;

(2) describe the proposed boundaries of the STAR bond project district;

- (3) describe the STAR bond project district plan;
- (4) state that a description and map of the proposed STAR bond project district are available for inspection at a time and place designated; and
- (5) state that the governing body will consider findings necessary for the establishment of a STAR bond project district.

Notice shall be given as prescribed in ~~subsection (f)(2) of~~ K.S.A. 2016 Supp. 12-17,166(f)(2), and amendments thereto.

(b) The city or county shall submit the proposed STAR bond project district to the secretary for a determination that the district is an eligible area as defined in K.S.A. 2016 Supp. 12-17,162, and amendments thereto.

(c) Upon the conclusion of the public hearing, and a finding by the secretary that the proposed project district is an eligible area, the governing body of the municipality shall pass an ordinance or resolution.

(1) An ordinance or resolution for a STAR bond project district shall:

(A) Make findings that the STAR bond project district proposed to be developed is an historic theater, or a STAR bond project as defined in K.S.A. 2016 Supp. 12-17,162, and amendments thereto;

(B) contain a STAR bond project district plan that identifies all of the proposed STAR bond project areas and identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each STAR bond project area. The boundaries of such STAR bond project district shall not include any area not designated in the notice required by subsection (a); and

(C) contain the legal description of the STAR bond project district and may establish the STAR bond project district.

(2) If no ordinance or resolution is passed by the city or county within 30 days from the conclusion of the public hearing, then such STAR bond project district shall not be established.

(d) The governing body of a city or county may establish a STAR bond project district within that city or such city may establish a district inclusive of land outside the boundaries of the city or wholly outside the boundaries of such city upon written consent of the board of county commissioners. Prior to providing written consent, the board of county commissioners must provide notice and hold a hearing as is required of a city pursuant to subsection (a) for the establishment of a STAR bond project district.

The governing body of a county may establish a STAR bond project district within the unincorporated area of the county.

(e) One or more STAR bond projects may be undertaken by a city or county within a STAR bond project district after such STAR bond project district has been established in the manner provided by this section.

(f) No privately owned property subject to ad valorem taxes shall be acquired and redeveloped under the provisions of K.S.A. 2016 Supp. 12-

17,160 et seq., and amendments thereto, if the board of county commissioners or the board of education levying taxes on such property determines by resolution adopted within 30 days following the conclusion of the hearing for the establishment of the STAR bond project district required by subsection (a) that the proposed STAR bond project district will have an adverse effect on such county or school district. The board of county commissioners or board of education shall deliver a copy of such resolution to the city or county. The city or county shall within 30 days of receipt of such resolution pass an ordinance or resolution dissolving the STAR bond project district. The provisions of this subsection shall not apply if the STAR bond project plan provides that ad valorem property tax revenues of the county or the school district levying taxes on such property will not be adversely impacted.

(g) A STAR bond project shall not include a project for a gambling casino.

(h) *No new STAR bond project district may be established from the effective date of this act through July 1, 2018, except that, for STAR bond project districts established prior to the effective date of this act, the foregoing shall not prohibit a city or county from utilizing all provisions of the STAR bonds financing act, including, but not limited to, K.S.A. 2016 Supp. 12-17,171, and amendments thereto.*

Sec. 3. K.S.A. 2016 Supp. 12-17,179 is hereby amended to read as follows: 12-17,179. (a) A city that created a redevelopment district in an eligible area that was approved for STAR bonds prior to the effective date of this act for the city of Manhattan Discovery Center on December 28, 2006, and the Schlitterbahn project in Wyandotte county on December 23, 2005, may by ordinance elect to have the provisions of this act applicable to such redevelopment district.

(b) The provisions of this act regarding STAR bond projects shall expire on and after July 1, ~~2017~~ 2020.

Sec. 4. K.S.A. 2016 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110. (a) *Resident Individuals.* Except as otherwise provided by K.S.A. 79-3220(a), and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns.*

(A) For tax year 2012:

If the taxable income is:	The tax is:
Not over \$30,000.....	3.5% of Kansas taxable income
Over \$30,000 but not over \$60,000 .....	\$1,050 plus 6.25% of excess over \$30,000
Over \$60,000 .....	\$2,925 plus 6.45% of excess over \$60,000

(B) For tax year 2013:

If the taxable income is:	The tax is:
Not over \$30,000.....	3.0% of Kansas taxable income
Over \$30,000.....	\$900 plus 4.9% of excess over \$30,000

(C) For tax year 2014:

If the taxable income is:	The tax is:
Not over \$30,000.....	2.7% of Kansas taxable income
Over \$30,000.....	\$810 plus 4.8% of excess over \$30,000

(D) For tax years 2015, and 2016 and 2017:

If the taxable income is:	The tax is:
Not over \$30,000.....	2.7% of Kansas taxable income
Over \$30,000.....	\$810 plus 4.6% of excess over \$30,000

(E) For tax year 2018, and all tax years thereafter 2017:

If the taxable income is:	The tax is:
Not over \$30,000.....	<del>2.6%</del> 2.9% of Kansas taxable income
Over \$30,000 but not over \$60,000 .....	<del>\$780</del> \$870 plus <del>4.6%</del> 4.9% of excess over \$30,000
Over \$60,000.....	\$2,340 plus 5.2% of excess over \$60,000

(F) For tax year 2018, and all tax years thereafter:

If the taxable income is:	The tax is:
Not over \$30,000.....	3.1% of Kansas taxable income
Over \$30,000 but not over \$60,000 .....	\$930 plus 5.25% of excess over \$30,000
Over \$60,000.....	\$2,505 plus 5.7% of excess over \$60,000

(2) All other individuals.

(A) For tax year 2012:

If the taxable income is:	The tax is:
Not over \$15,000.....	3.5% of Kansas taxable income
Over \$15,000 but not over \$30,000 .....	\$525 plus 6.25% of excess over \$15,000
Over \$30,000.....	\$1,462.50 plus 6.45% of excess over \$30,000

(B) For tax year 2013:

If the taxable income is:	The tax is:
Not over \$15,000.....	3.0% of Kansas taxable income

Over \$15,000 .....	\$450 plus 4.9% of excess over \$15,000
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(C) For tax year 2014:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.7% of Kansas taxable income
Over \$15,000 .....	\$405 plus 4.8% of excess over \$15,000

(D) For tax years 2015; ~~and 2016~~ ~~and 2017~~:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.7% of Kansas taxable income
Over \$15,000 .....	\$405 plus 4.6% of excess over \$15,000

(E) For tax year ~~2018~~, ~~and all tax years thereafter~~ 2017:

If the taxable income is:	The tax is:
Not over \$15,000.....	<del>2.6%</del> 2.9% of Kansas taxable income
Over \$15,000 <i>but not over \$30,000</i> .....	<del>\$300</del> \$435 plus <del>4.6%</del> 4.9% of excess over \$15,000
Over \$30,000 .....	\$1,170 plus 5.2% of excess over \$30,000

(F) For tax year 2018, and all tax years thereafter:

If the taxable income is:	The tax is:
Not over \$15,000.....	3.1% of Kansas taxable income
Over \$15,000 <i>but not over \$30,000</i> .....	\$465 plus 5.25% of excess over \$15,000
Over \$30,000 .....	\$1,252.50 plus 5.7% of excess over \$30,000

(b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas taxable income of every nonresident individual, which tax shall be an amount equal to the tax computed under subsection (a) as if the nonresident were a resident multiplied by the ratio of modified Kansas source income to Kansas adjusted gross income.

(c) *Corporations.* A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(1) The normal tax shall be in an amount equal to 4% of the Kansas taxable income of such corporation; and

(2) (A) for tax year 2008, the surtax shall be in an amount equal to 3.1% of the Kansas taxable income of such corporation in excess of \$50,000;

(B) for tax years 2009 and 2010, the surtax shall be in an amount

equal to 3.05% of the Kansas taxable income of such corporation in excess of \$50,000; and

(C) for tax year 2011, and all tax years thereafter, the surtax shall be in an amount equal to 3% of the Kansas taxable income of such corporation in excess of \$50,000.

(d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable income of estates and trusts at the rates provided in subsection (a)(2) hereof.

~~(e) Tax rates provided in this section shall be adjusted pursuant to the provisions of K.S.A. 2016 Supp. 79-32,269, and amendments thereto.~~

~~(f) Notwithstanding the provisions of subsections (a) and (b): (1) For tax year years 2016, and all tax years thereafter and 2017, married individuals filing joint returns with taxable income of \$12,500 or less, and all other individuals with taxable income of \$5,000 or less, shall have a tax liability of zero; and (2) for tax year 2018, and all tax years thereafter, married individuals filing joint returns with taxable income of \$5,000 or less, and all other individuals with taxable income of \$2,500 or less, shall have a tax liability of zero.~~

~~(f) No taxpayer shall be assessed penalties and interest arising from the underpayment of taxes due to changes to the rates in subsection (a) that became law on July 1, 2017, so long as such underpayment is rectified on or before April 17, 2018.~~

Sec. 5. K.S.A. 2016 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes

imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction, *except that the federal net operating loss deduction shall not be added to an individual's federal adjusted gross income for tax years beginning after December 31, 2016.*

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments thereto.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,204, and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203, and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2016 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pur-

suant to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2016 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2016 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to subsection (c)(xiii), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xix) For ~~all~~ taxable years beginning after December 31, 2012, *and*



*ending before January 1, 2017*, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For ~~all~~ taxable years beginning after December 31, 2012, *and ending before January 1, 2017*, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer, to the extent the deduction is attributable to income reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income tax return.

(xxi) For ~~all~~ taxable years beginning after December 31, 2012, *and ending before January 1, 2017*, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For ~~all~~ taxable years beginning after December 31, 2012, *and ending before January 1, 2017*, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For ~~all~~ taxable years beginning after December 31, 2012, *and ending before January 1, 2017*, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such ex-

penses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xxv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes im-

posed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. § 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas venture capital, inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249, and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2016 Supp. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. ~~For all~~ taxable years beginning after December 31, 2012, *and ending before January 1, 2017*, the amount of modification under this subsection shall exclude the portion of income or loss reported

on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2016 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

(xvii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xviii) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

(xix) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university's retirement plan.

(xx) For ~~all~~ taxable years beginning after December 31, 2012, *and ending before January 1, 2017*, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income, not including guaranteed payments as defined in section 707(c) of the federal internal revenue code and as reported to the taxpayer from federal schedule K-1, (form 1065-B), in box 9, code F or as reported to the taxpayer from federal schedule K-1, (form 1065) in box 4, from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(xxi) For all taxable years beginning after December 31, 2013, amounts equal to the unreimbursed travel, lodging and medical expenditures directly incurred by a taxpayer while living, or a dependent of the taxpayer while living, for the donation of one or more human organs of the taxpayer, or a dependent of the taxpayer, to another person for human organ transplantation. The expenses may be claimed as a subtraction modification provided for in this section to the extent the expenses are not already subtracted from the taxpayer's federal adjusted gross income. In no circumstances shall the subtraction modification provided for in this section for any individual, or a dependent, exceed \$5,000. As used in this section, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The provisions of this paragraph shall take effect on the day the secretary of revenue certifies to the director of the budget that the cost for the department of revenue of modifications to the automated tax system for the purpose of implementing this paragraph will not exceed \$20,000.

(xxii) For ~~all~~ taxable years beginning after December 31, 2012, *and ending before January 1, 2017*, the amount of net gain from the sale of: (1) Cattle and horses, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 24 months or more from the date of acquisition; and (2) other livestock, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 12 months or more from the

date of acquisition. The subtraction from federal adjusted gross income shall be limited to the amount of the additions recognized under the provisions of subsection (b)(xix) attributable to the business in which the livestock sold had been used. As used in this paragraph, the term "livestock" shall not include poultry.

(xxiii) For all taxable years beginning after December 31, 2012, amounts received under either the Overland Park, Kansas police department retirement plan or the Overland Park, Kansas fire department retirement plan, both as established by the city of Overland Park, pursuant to the city's home rule authority.

(xxiv) For ~~all~~ taxable years beginning after December 31, 2013, and ending before January 1, 2017, the net gain from the sale from Christmas trees grown in Kansas and held by the taxpayer for six years or more.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

(f) *No taxpayer shall be assessed penalties and interest from the underpayment of taxes due to changes to this section that became law on July 1, 2017, so long as such underpayment is rectified on or before April 17, 2018.*

Sec. 6. K.S.A. 2016 Supp. 79-32,120 is hereby amended to read as follows: 79-32,120. (a) (1) If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction.

(2) For the tax year commencing on January 1, 2013, the Kansas itemized deduction of an individual means 70% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(3) For the tax year commencing on January 1, 2014, the Kansas itemized deduction of an individual means 65% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(4) For the tax years commencing on and after January 1, 2015, and ending before January 1, 2018, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross in-

come, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 50% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (C) 50% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

(5) *For the tax year commencing on and after January 1, 2018, and ending before January 1, 2019, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 50% of expenses for medical care allowable as deductions in section 213 of the federal internal revenue code; (C) 50% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (D) 50% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.*

(6) *For the tax year commencing on and after January 1, 2019, and ending before January 1, 2020, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 75% of expenses for medical care allowable as deductions in section 213 of the federal internal revenue code; (C) 75% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (D) 75% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.*

(7) *For the tax years commencing on and after January 1, 2020, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 100% of expenses for medical care allowable as deductions in section 213 of the federal internal revenue code; (C) 100% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue*

code; and (D) 100% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

(b) The total amount of deductions from federal adjusted gross income shall be reduced by the total amount of income taxes imposed by or paid to this state or any other taxing jurisdiction to the extent that the same are deducted in determining the federal itemized deductions and by the amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction allowed by K.S.A. 2016 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

Sec. 7. K.S.A. 2016 Supp. 79-32,138 is hereby amended to read as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

(b) There shall be added to federal taxable income: (i) The same modifications as are set forth in ~~subsection (b) of~~ K.S.A. 79-32,117(b), and amendments thereto, with respect to resident individuals, except subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii);

(ii) the amount of all depreciation deductions claimed for any property upon which the deduction allowed by K.S.A. 2016 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is claimed;

(iii) the amount of any charitable contribution deduction claimed for any contribution or gift to or for the use of any racially segregated educational institution;

(iv) for taxable years commencing December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and amendments thereto;

(v) the amount of any charitable contribution deduction claimed for any contribution or gift made to a scholarship granting organization to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2016 Supp. 72-99a07, and amendments thereto; and

(vi) *the federal net operating loss deduction.*

(c) There shall be subtracted from federal taxable income: (i) The same modifications as are set forth in ~~subsection (c) of~~ K.S.A. 79-



32,117(c), and amendments thereto, with respect to resident individuals, except subsection (c)(xx);

(ii) the federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal income tax liability for such year which bears the same ratio to the total federal income tax liability for such year as the Kansas taxable income, as computed before any deductions for federal income taxes and after application of subsections (d) and (e) of this section as existing for such year, bears to the federal taxable income for the same year;

(iii) an amount for the amortization deduction allowed pursuant to K.S.A. 2016 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto;

(iv) for all taxable years commencing after December 31, 1987, the amount included in federal taxable income pursuant to the provisions of section 78 of the internal revenue code; *and*

(v) for all taxable years commencing after December 31, 1987, 80% of dividends from corporations incorporated outside of the United States or the District of Columbia which are included in federal taxable income.

(d) If any corporation derives all of its income from sources within Kansas in any taxable year commencing after December 31, 1979, its Kansas taxable income shall be the sum resulting after application of subsections (a) through (c) hereof. Otherwise, such corporation's Kansas taxable income in any such taxable year, after excluding any refunds of federal income tax and before the deduction of federal income taxes provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund of federal income tax as determined under ~~paragraph (iv) of subsection (b) of K.S.A. 79-32,117(b)(iv), and amendments thereto,~~ and minus the deduction for federal income taxes as provided by subsection (c)(ii) shall be such corporation's Kansas taxable income.

(e) A corporation may make an election with respect to its first taxable year commencing after December 31, 1982, whereby no addition modifications as provided for in subsection (b)(ii) ~~of K.S.A. 79-32,138, and amendments thereto,~~ and subtraction modifications as provided for in subsection (c)(iii) ~~of K.S.A. 79-32,138, and amendments thereto,~~ as those subsections existed prior to their amendment by this act, shall be required to be made for such taxable year.

Sec. 8. K.S.A. 2016 Supp. 12-17,165, 12-17,179, 79-32,110, 79-32,117, 79-32,120, 79-32,138 and 79-32,269 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

**CERTIFICATE**

In accordance with K.S.A. 45-304, it is certified that **Senate Bill No. 30**, was not approved by the Governor on June 6, 2017; was returned by him with his objections and approved on June 6, 2017 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 6, 2017, 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 7th day of June, by the Chief Clerk and Speaker of the House of Representatives and the President and Secretary of the Senate.

SUSAN W. KANNARR  
*Chief Clerk of the House of  
Representatives of the State of Kansas*  
RON RYCKMAN  
*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)

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**CHAPTER 85**

Substitute for HOUSE BILL No. 2277  
(Amends Chapter 56)

AN ACT concerning alcoholic beverages; creating common consumption areas designated by cities and counties; authorizing common consumption area permits; relating to club memberships; amending K.S.A. 2016 Supp. 41-719 and 41-2641 and section 1 of 2017 House Substitute for Senate Bill No. 13 and repealing the existing sections.

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

New Section 1. (a) (1) A city or a county may establish one or more common consumption areas within the limits of the city or within the unincorporated portion of the county, as applicable, by ordinance or res-

olution, respectively, and authorize the possession and consumption of alcoholic liquor within the common consumption area. The ordinance or resolution shall designate the boundaries of any common consumption area and prescribe the times during which alcoholic liquor may be consumed therein. The ordinance or resolution shall require that any public street or roadway that lies within a common consumption area shall be blocked from motorized traffic during the hours in which alcohol is consumed.

(2) The city or county shall immediately notify the director of the division of alcoholic beverage control of the establishment of a common consumption area and submit a copy of the ordinance or resolution along with such notice.

(b) A common consumption area permit shall allow the consumption of alcoholic liquor in any area designated by such permit. The director may issue common consumption area permits to the city or county or any one person who shall be a resident of Kansas or an organization that has its principal place of business in Kansas and that has been approved by the respective city or county, in accordance with rules and regulations adopted by the secretary of revenue.

(c) Applications for common consumption area permits shall be submitted to the director, subject to the following:

(1) A copy of any ordinance or resolution promulgated in accordance with subsection (a) shall accompany any application for a common consumption area permit.

(2) Each application shall be accompanied by a non-refundable permit fee of \$100. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(3) A common consumption area permit shall be issued for a period of not to exceed one year. A common consumption area permit shall not be transferable or assignable.

(d) Any licensee immediately adjacent to, or located within a common consumption area may request that the licensee's licensed premises participate in the common consumption area for the duration of the common consumption area permit. Such a request shall be made upon forms prescribed by the director.

(e) Any licensee who has requested and received permission to participate in the common consumption area may allow its legal patrons to remove alcoholic liquor purchased from the licensee into the premises described by the common consumption area permit. All alcoholic beverages removed from a licensed premises in such fashion shall be served in a container that displays the licensee's trade name or logo or other identifying mark that is unique to the licensee.

(f) (1) Each licensee within a common consumption area shall be liable for violations of all liquor laws governing the sale and consumption of alcoholic liquor that occur on the licensee's premises.

(2) Each common consumption area permit holder shall be liable for violations that occur off the licensee's premises, but within the common consumption area identified in the permit. No permit holder shall permit any person to remove any open container of alcoholic liquor from the boundaries of the common consumption area.

(g) For the purposes of this section, "common consumption area" shall mean a defined indoor or outdoor area not otherwise subject to a license issued pursuant to the Kansas liquor control act or the club and drinking establishment act where the possession and consumption of alcoholic liquor is allowed pursuant to a common consumption area permit. The boundaries of any common consumption area must be clearly marked using a physical barrier or any apparent line of demarcation.

(h) The secretary shall adopt rules and regulations to implement this section.

(i) This section shall be a part of and supplemental to the club and drinking establishment act.

Sec. 2. K.S.A. 2016 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be consumed at a special event or catered event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A. 41-2645, and amendments thereto, for such special event or when the caterer's licensee has provided the required notification pursuant to K.S.A. 41-2643, and amendments thereto. Any special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any special event or catered event.

(3) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township, or the boundaries of the catered event. The boundaries of a special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(4) No person shall possess or consume alcoholic liquor inside the premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.

(b) *Alcoholic liquor may be consumed within common consumption*

*areas designated by a city or county on public streets, alleys, roads, sidewalks or highways pursuant to section 1, and amendments thereto, except that no alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways within a common consumption area. Further, no person shall remove any alcoholic liquor from inside the boundaries of the common consumption area which shall be clearly designated by a physical barrier.*

(c) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(5) on the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or K.S.A. 2016 Supp. 41-354, and amendments thereto; ~~or~~

(6) on the premises of an unlicensed business as authorized pursuant to subsection ~~(i)~~ (j); or

(7) *within a common consumption area established pursuant to section 1, and amendments thereto.*

~~(c)~~(d) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created

pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under K.S.A. 41-308a(e), and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(10) On the premises of any land or waters owned or managed by the department of wildlife, parks and tourism, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto.

(11) On property exempted from this subsection ~~(e)~~ pursuant to subsection ~~(d)~~ ~~(e)~~ ~~(f)~~ ~~(g)~~ ~~(h)~~ or ~~(i)~~.

(12) On the premises of the state capitol building or on its surrounding premises during an official state function of a nonpartisan nature that has been approved by the legislative coordinating council.

(13) *On premises of a common consumption area established by section 1, and amendments thereto.*

~~(d)~~(e) Any city may exempt, by ordinance, from the provisions of subsection ~~(e)~~ (d) specified property the title of which is vested in such city.

~~(e)~~(f) The board of county commissioners of any county may exempt,

by resolution, from the provisions of subsection ~~(e)~~ (d) specified property the title of which is vested in such county.

~~(f)~~(g) The state board of regents may exempt from the provisions of subsection ~~(e)~~ (d) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

~~(g)~~(h) The board of regents of Washburn university may exempt from the provisions of subsection ~~(e)~~ (d) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

~~(h)~~(i) The board of trustees of a community college may exempt from the provisions of subsection ~~(e)~~ (d) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

~~(i)~~(j) (1) An unlicensed business may authorize patrons or guests of such business to consume alcoholic liquor on the premises of such business provided:

(A) Such alcoholic liquor is in the personal possession of the patron and is not sold, offered for sale or given away by the owner of such business or any employees thereof;

(B) possession and consumption of alcoholic liquor shall not be authorized between the hours of 12 a.m. and 9 a.m.;

(C) the business, or any owner thereof, shall not have had a license issued under either the Kansas liquor control act or the club and drinking establishment act revoked for any reason; and

(D) no charge of any sort may be made by the business for the privilege of possessing or consuming alcoholic liquor on the premises, or for mere entry onto the premises.

(2) It shall be a violation of this section for any unlicensed business to authorize the possession or consumption of alcoholic liquor by a patron of such business when such authorization is not in accordance with the provisions of this subsection.

(3) For the purposes of this subsection, “patron” means a natural person who is a customer or guest of an unlicensed business.

~~(j)~~(k) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

~~(k)~~(l) For the purposes of this section; (1) “Special event” means a picnic, bazaar, festival or other similar community gathering, which has

been approved by the local governing body of any city, county or township; *and*

(2) *“common consumption area” has the meaning as defined in section 1, and amendments thereto.*

Sec. 3. K.S.A. 2016 Supp. 41-2641 is hereby amended to read as follows: 41-2641. (a) A license for a class B club shall allow the licensee to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members of such club and guests accompanying them; and (2) serve samples of alcoholic liquor free of charge on the licensed premises for consumption by such members and their families and guests accompanying them.

No charge of any sort may be made for a sample serving. A person may be served no more than five samples per visit. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(b)(1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) only if the class B club is a restaurant.

(c) Except as provided by subsection (d), an applicant for membership in a class B club shall, before becoming a member of such club:

(1) Be screened by the club for good moral character; *and*

(2) pay an annual membership fee of not less than \$10; ~~and~~

~~(3) wait for a period of 10 days after completion of the application form and payment of the membership fee.~~

(d) Notwithstanding the membership fee ~~and waiting period~~ requirement of subsection (c):

(1) Any class B club located on the premises of a hotel or RV resort may establish rules whereby a guest, who registered at the hotel or RV resort and who is not a resident of the county in which the club is located, may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of time that the guest



is a bona fide registered guest at the hotel or RV resort and such temporary membership shall not be subject to the ~~waiting period or~~ fee requirement of this section.

(2) Any class B club located on property which is owned or operated by a municipal airport authority and upon which consumption of alcoholic liquor is authorized by law may establish rules whereby an air traveler who is a holder of a current airline ticket may file application for temporary membership in such club for the day such air traveler's ticket is valid, and such temporary membership shall not be subject to the ~~waiting period or~~ fee requirement of this section.

(3) Any class B club may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary membership in a class B club under this subsection (d)(3) shall present the temporary duty orders to the club. Temporary membership issued under this subsection (d)(3) shall not be subject to the ~~waiting period or~~ fee requirements of this section.

(4) Any class B club may enter into a written agreement with a hotel or RV resort whereby a guest who is registered at the hotel or RV resort and who is not a resident of the county in which the club is located may file application for temporary membership in such club. The temporary membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and shall not be subject to the ~~waiting period or dues fee~~ requirement of this section. A club may enter into a written agreement with a hotel or RV resort pursuant to this provision only if: (A) The hotel or RV resort is located in the same county as the club; (B) there is no class B club located on the premises of the hotel or RV resort; and (C) no other club has entered into a written agreement with the hotel or RV resort pursuant to this section.

(5) Any class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons attending such races may file an application for temporary membership in such club for the day such person is attending such races, and such temporary membership shall not be subject to the ~~waiting period or~~ fee requirement of this section.

(e) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 4. On and after January 1, 2018, section 1 of 2017 House Substitute for Senate Bill No. 13 is hereby amended to read as follows: Section 1. (a) Notwithstanding the provisions of K.S.A. 41-1101, and amendments thereto, or the provisions of the Kansas cereal malt beverage act, a distributor may establish reasonable minimum order quantities or minimum dollar value of an order, or both, for ~~alcoholic liquor~~ beer and cereal malt beverages distributed by the distributor to a retailer.

(b) The provisions of K.S.A. 41-1101(b), and amendments thereto, shall apply to a person licensed pursuant to K.S.A. 41-2702, and amendments thereto, to sell cereal malt beverage and beer containing not more than 6% alcohol by volume to the same extent it applies to a retailer licensed pursuant to the Kansas liquor control act, and the provisions of K.S.A. 41-1101(d), and amendments thereto, shall apply to a retailer licensed pursuant to the Kansas liquor control act to the same extent it applies to a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas liquor control act.

(d) The provisions of this section shall be effective on and after April 1, 2019.

Sec. 5. K.S.A. 2016 Supp. 41-719 and 41-2641 are hereby repealed.

Sec. 6. On and after January 1, 2018, section 1 of 2017 House Substitute for Senate Bill No. 13 is hereby repealed.

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

Approved June 7, 2017.

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## CHAPTER 86

### House Substitute for SENATE BILL No. 60

AN ACT concerning agriculture; relating to the Kansas department of agriculture; certain fees; authorizing the Kansas secretary of agriculture to collect a fee for processing paper documents; amending K.S.A. 74-576 and K.S.A. 2016 Supp. 2-1205, 2-2204, 2-2440, 2-2440b, 2-2443a, 2-2445a, 2-3304, 2-3306, 65-778, 65-781, 82a-303b, 82a-708a, 82a-708b, 82a-708c, 82a-714 and 82a-727 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 2-1205 is hereby amended to read as follows: 2-1205. An inspection fee shall be collected upon all commercial fertilizers sold, offered or exposed for sale, or distributed in Kansas, which shall be at a rate per ton ~~of 2,000 pounds~~ fixed by rules and regulations adopted by the secretary of agriculture, except that such rate shall not exceed \$1.67 per ton ~~of 2,000 pounds~~. The secretary of agriculture may

adopt rules and regulations establishing the inspection fee rate under this section. Each person registering any commercial fertilizer shall pay the inspection fee on such commercial fertilizer sold, offered or exposed for sale, or distributed in Kansas. Each such person shall keep adequate records showing the tonnage of each commercial fertilizer shipped to or sold, offered or exposed for sale, or distributed in Kansas. The secretary, and duly authorized representatives of the secretary, shall have authority to examine such records and other pertinent records necessary to verify the statement of tonnage.

Each person registering any commercial fertilizer shall file an affidavit semiannually, with the secretary, within 30 days after each January 1 and each July 1, showing the tonnage of commercial fertilizer sold or distributed in Kansas for the preceding six-month period. Each such person shall pay to the secretary the inspection fee due for such six-month period, except that the registrant shall not be required to pay the inspection fee or report the tonnage of commercial fertilizers or fertilizer materials sold and shipped directly to fertilizer manufacturers or mixers. The fertilizer manufacturers or mixers shall keep adequate records of the commercial fertilizers sold or distributed in this state, and report to the secretary the tonnage and pay the inspection fee due. If the affidavit is not filed and the inspection fee is not paid within the 30-day period, or if the report of tonnage is false, the secretary may revoke the registrations filed by such person. If the affidavit is not filed and the inspection fee is not paid within the 30-day period, or any extension thereof granted by the secretary, a penalty of \$10 per day shall be assessed against the registrant, except that on and after July 1, ~~2015~~ 2023, a penalty of \$5 per day shall be assessed against the registrant, and the inspection fee and penalty shall constitute a debt and become the basis for a judgment against such person. The secretary may grant a reasonable extension of time.

~~The secretary of agriculture is hereby authorized and empowered to reduce the inspection fee by adopting rules and regulations under this section whenever the secretary determines that the inspection fee is yielding more than is necessary for the purpose of administering the provisions of this act as listed below and the plant pest act. The secretary is hereby authorized and empowered to increase the inspection fee by adopting rules and regulations under this section when it finds that such is necessary to produce sufficient revenues for the purposes of administering the provisions of this act, except that the inspection fee shall not be increased in excess of the maximum fee prescribed by this section. The secretary shall remit all moneys received by or for the secretary under article 12 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such remittance as follows:-(1) (a) An amount equal to~~

\$1.40 per ton shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto; ~~(2)~~ (b) an amount equal to \$.04 per ton shall be credited to the fertilizer research fund; and ~~(3)~~ (c) the remainder shall be credited to the fertilizer fee fund. All expenditures from the fertilizer fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary. *The secretary of agriculture shall reduce the inspection fee by adopting rules and regulations under this section whenever the secretary determines that the inspection fee is yielding more than is necessary for the purpose of administering the provisions of this act. The secretary may increase the inspection fee by adopting rules and regulations under this section when the secretary finds that such increase is necessary to produce sufficient revenues for the purpose of administering the provisions of this act, except that the inspection fee shall not be increased in excess of the maximum fee prescribed by this section.*

Sec. 2. K.S.A. 2016 Supp. 2-2204 is hereby amended to read as follows: 2-2204. (a) Every agricultural chemical which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered by the secretary. The secretary shall have the authority to classify or designate as restricted-use any pesticide registered for sale, use or distribution in the state of Kansas, according to rules and regulations promulgated by the secretary. The secretary may adopt rules and regulations to allow products to be registered for a period not to exceed three years. All registration of products shall expire on December 31 of the year the registration is set to expire, unless such registration shall be renewed, in which event expiration date shall be extended for each year of renewal registration, or until otherwise terminated. Products which have the same formula, and are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same agricultural chemical may be registered as a single product and additional names and labels shall be added by supplement statements during the current period of registration. Within the discretion of the secretary, or an authorized representative of the secretary, a change in the labeling or formulas of an agricultural chemical may be made within the current period of registration without requiring a reregistration of the product. Any agricultural chemical imported into this state which is subject to the provisions of any federal act providing for the registration and which has been duly registered under the provisions of such federal act, in the discretion of the secretary, may be exempted from registration under this act when such agricultural chemical is sold or distributed in

the unbroken immediate container in which such agricultural chemical was originally shipped.

(b) The registrant shall file with the secretary, a statement including: (1) The name and address of the registrant and the name and address of the person whose name will appear on the label if other than the registrant; (2) the name of the agricultural chemical; (3) a complete copy of the labeling accompanying the agricultural chemical and a statement of all claims made and to be made for it and a statement of directions for use; and (4) if requested by the secretary, or an authorized representative of the secretary, a full description of the tests made and the results thereof upon which the claims are based.

(c) The secretary may require the registrant to submit a copy of the product label registered by the EPA under the provisions of FIFRA.

(d) Any time the registrant modifies the label, the modified label shall be submitted to the secretary for review and approval prior to implementing the new label in Kansas.

(e) On the date of registration, the registrant shall pay a fee fixed by rules and regulations adopted by the secretary of agriculture. Such fee shall equal an amount per registered agricultural chemical, not to exceed \$150 per year. Such fee shall be deposited in the state treasury and credited as follows: (1) An amount equal to \$100 for each year of registration shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto; and (2) the remainder shall be credited to the agricultural chemical fee fund to be used for carrying out the provisions of this act. The annual fee for each agricultural chemical registered which is in effect on the day preceding the effective date of this act shall continue in effect until the secretary of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. The secretary of agriculture ~~is hereby authorized and empowered, shall reduce the fee imposed by this subsection by adopting rules and regulations whenever it the secretary determines that the fee imposed by this subsection and paid into the state treasury as provided by law is yielding more revenue than is required for the purposes to which such fee is devoted by law, to reduce the fee imposed by this subsection for such period as the secretary shall deem justified by adopting rules and regulations under this subsection but not for less than one year. In the event that the secretary, after reducing such fee, finds that sufficient revenues are not being produced by such reduced fee, the secretary is authorized and empowered may increase the fee by adopting rules and regulations under this subsection, to restore in full or in part such fee to an amount which, in the judgment of the secretary, will produce sufficient revenues for the purposes as provided in this section, but not exceeding the maximum amount of the fee imposed by this subsection.~~

(f) The secretary, or an authorized representative of the secretary, whenever it is deemed essential in the administration of this act, may

require the submission of the complete formula or any other data in support of the registration for any pesticide. The complete formula and any other trade secrets submitted to support the registration application shall be considered as confidential. If it appears to the secretary, or an authorized representative of the secretary, that the composition of the product is such as to warrant the proposed claims for the product and if the product and its labeling and other material required to be submitted comply with the requirements of this act, the secretary shall register the product.

(g) If it does not appear to the secretary, or an authorized representative of the secretary, that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted do not comply with the provisions of this act, the secretary shall notify the registrant of the manner in which the product, labeling, or other material required to be submitted fail to comply with the act and rules and regulations adopted pursuant thereto so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant does not make the required changes within 30 days, the secretary may deny registration of the product. In addition, the secretary may deny registration of a product if the application for registration fails to comply with this act or any rule or regulation adopted pursuant thereto. If the secretary denies a registration, the registrant may request a hearing in accordance with the provisions of the Kansas administrative procedure act.

(h) Any pesticide registration canceled or suspended under the provisions of FIFRA shall be considered to be canceled or suspended under provisions of the agricultural chemical act of 1947, unless such cancellation is due to the nonpayment of registration fees required under FIFRA.

(i) If the secretary determines that a registered product fails to meet the claims made on its label, the secretary may suspend or revoke the product registration after a hearing in accordance with the provisions of the Kansas administrative procedure act. In addition, if the secretary determines that a registered product or its labeling fails to comply with this act, or a rule or regulation adopted pursuant to this act, the secretary may suspend or revoke the product registration after a hearing in accordance with the provisions of the Kansas administrative procedure act.

(j) In order to protect the public, the secretary, or a duly authorized representative of the secretary, on the secretary's own motion, may at any time, after written notice to the registrant, suspend or revoke the registration of an agricultural chemical. Any person so notified shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act with regard to the secretary's contemplated action, before any registration is suspended or revoked.

(k) Notwithstanding any other provisions of this act, registration is not required in the case of an agricultural chemical shipped from one

plant within this state to another plant within this state operated by the same person.

(1) Any information required to be filed pursuant to this section, may be filed electronically pursuant to rules and regulations promulgated by the secretary.

Sec. 3. K.S.A. 2016 Supp. 2-2440 is hereby amended to read as follows: 2-2440. (a) Subject to the provisions of subsection (d), it is unlawful for any pesticide business which has not been issued a pesticide business license to:

(1) Advertise, offer for sale, sell or perform any service for the control of a pest on the property of another or apply a pesticide to the property of another within this state; or

(2) perform any service for the control of a pest or apply any pesticide on or at the premises of another person under any commission, division of receipts or subcontracting arrangement with a licensed pesticide business.

Nothing in this subsection shall be construed to require the licensing of any person applying restricted use pesticides to the property of another as a certified private applicator or under the supervision of a certified private applicator.

(b) Application for a pesticide business license or renewal shall be made on a form obtained from the secretary and shall be accompanied by an application fee per category in which the licensee applies, and an additional fee for each uncertified individual employed by the applicant to apply pesticides. The application fee per category shall be \$140 per category in which the licensee applies, except that on and after July 1, ~~2018~~ 2023, the application fee per category shall be \$112 per category in which the licensee applies. An additional fee of \$15 shall be paid for each uncertified individual employed by the applicant to apply pesticides, except that on and after July 1, ~~2018~~ 2023, an additional fee of \$10 shall be paid for each uncertified individual employed by the applicant to apply pesticides. The application fee per category and the additional fee for each uncertified employee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee under this subsection. Any uncertified individual employed for a period of more than 10 days in a 30-day period or for five consecutive days by a licensee to apply pesticides subsequent to such application shall be reported to the secretary within 30 days of such employee's hiring and the fee shall be paid at that time. Each application shall also include the following:

(1) The business name of the person applying for such license or renewal;

(2) if the applicant is an individual, receiver, trustee, representative, agent, firm, partnership, association, corporation or other organized

group of persons, whether or not incorporated, the full name of each owner of the firm or partnership or the names of the officers of the association, corporation or group;

(3) the principal business address of the applicant in the state and elsewhere; and

(4) any other information the secretary, by rules and regulations, deems necessary for the administration of this act.

(c) The secretary may issue a pesticide business license to apply pesticides in categories for which an applicant has applied if the applicant files the bond, insurance, letter of credit or proof of an escrow account as required under K.S.A. 2-2448, and amendments thereto, satisfies the requirements of subsection (b), and pays the required fees. Such license shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(d) The following persons shall be exempted from the licensing requirements of this act:

(1) State or federal personnel using pesticides or pest control services while engaged in pesticide use research;

(2) veterinarians or physicians using pesticides as a part of their professional services; and

(3) any person or such person's employee who applies pesticides on or at premises owned, leased or operated by such person.

(e) Subject to the provisions of subsection (d), it is unlawful for any governmental agency which has not been issued a government agency registration to apply pesticides within this state. Application for government agency registration shall be made on a form obtained from the secretary and shall be accompanied by a fee fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$50, except that on and after July 1, ~~2018~~ 2023, such fee shall not exceed \$35. The governmental agency registration fee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee therefor under this subsection. No fee shall be required of any township located within a county which has previously applied for and received government agency registration. Each application for registration shall contain information including, but not limited to:

(1) The name of the government agency;

(2) the mailing address of the applicant;

(3) the name and mailing address of the person who heads such agency and who is authorized to receive correspondence and legal papers. Such person shall be: (A) The mayor or city manager for municipalities; (B) the chairperson of the board of county commissioners for counties;



(C) the township trustee for townships; or (D) any person designated by any other governmental agency; and

(4) any other information the secretary, by rules and regulations, deems necessary for the administration of this act.

(f) If the secretary finds the application to be sufficient, the secretary shall issue a government agency registration. The government agency is not required to furnish a surety bond under this act. Such government agency registration shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a registration is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(g) A pesticide business license or government agency registration may be renewed by meeting the same requirements as for a new license or registration. Neither the pesticide business license nor the government agency registration shall be transferable, except that, in the event of the disability, incapacity or death of the owner, manager or legal agent of a pesticide business licensee, a permit may be issued by the secretary to permit the operation of such business until the expiration period of the license in effect at the time of such disability, incapacity or death if the applicant therefor can show that the policies and services of such business will continue substantially as before, with due regard to protection of the public and the environment.

(h) No pesticide business license may be issued to any person until such person is or has in such person's employ one or more individuals who are certified commercial applicators in each of the categories for which the license application is made.

Sec. 4. K.S.A. 2016 Supp. 2-2440b is hereby amended to read as follows: 2-2440b. (a) It shall be unlawful for any pesticide business licensee to apply pesticides for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests unless the applicator of the pesticide is a certified commercial applicator or is a registered pest control technician, except that an uncertified commercial applicator may apply pesticides when either a certified applicator or registered pest control technician is physically present.

(b) Any such employee applying for a pest control technician registration shall file an application on a form prescribed by the secretary. Application for such registration shall be accompanied by an application fee established by rules and regulations adopted by the secretary, except that such fee shall not exceed \$40, except that on and after July 1, 2023, such fee shall not exceed \$25, and shall be reduced, but not below zero, by an amount equal to the additional fee paid under ~~subsection (b) of~~ K.S.A. 2-2440(b), and amendments thereto, for such uncertified individual.

(c) If the secretary finds the applicant qualified to be a registered

pest control technician after meeting the training requirements determined by the secretary in rules and regulations, the secretary shall issue a pest control technician registration which will expire at the end of the calendar year.

(d) This section shall be part of and supplemental to the Kansas pesticide law.

Sec. 5. K.S.A. 2016 Supp. 2-2443a is hereby amended to read as follows: 2-2443a. An applicant for a commercial applicator's certificate shall show upon written examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides in the categories or subcategories for which the applicant has applied. A commercial applicator who holds a current certificate to apply pesticides commercially in any other state or political subdivision of the United States may be exempted from examination for certification in this state upon approval of the secretary and payment of a \$75 fee per category, unless a fee not to exceed \$75 is established in rules and regulations adopted by the secretary.

Applicants shall submit with each application a fee per examination taken, including each category, subcategory and general core examination. The examination fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$45 per examination, except that on and after July 1, ~~2018~~ 2023, such fee shall not exceed \$35 per examination. Applicants who fail to pass the examination may reapply and take another examination upon paying another examination fee, which fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$45 per examination, except that on and after July 1, ~~2018~~ 2023, such fee shall not exceed \$35 per examination. The general core examination shall include, but is not limited to, the following:

- (a) The proper use of the equipment.
- (b) The hazards that may be involved in applying the pesticides, including:
  - (1) The effect of drift of the pesticides on adjacent and nearby lands and other non-target organisms;
  - (2) the proper meteorological conditions for the application of pesticides and the precautions to be taken with such application;
  - (3) the effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;
  - (4) the effect of the application of pesticides to wildlife in the area, including aquatic life;
  - (5) the identity and classification of pesticides used and the effects of their application in particular circumstances; and

(6) the likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects and vegetation.

(c) Calculating the concentration of pesticides to be used.

(d) Identification of common pests to be controlled and damages caused by such pests.

(e) Protective clothing and respiratory equipment for handling and application of pesticides.

(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.

(g) Applicable state and federal pesticide laws and regulations.

(h) Any other subject which the secretary deems necessary.

Sec. 6. K.S.A. 2016 Supp. 2-2445a is hereby amended to read as follows: 2-2445a. In lieu of obtaining a commercial applicator's certificate under the provisions of K.S.A. 2-2441a, and amendments thereto, a private applicator's certificate may be applied for by and issued to individuals using restricted use pesticides for the purpose of producing any agricultural commodity on property owned or rented by the individual or such individual's employer, or on the property of another for no compensation other than the trading of personal services between producers. Such certificates shall expire on the anniversary of the individual's date of birth occurring in the fifth calendar year following the year of issue. No certification shall be required hereunder for individuals operating under the supervision of a certified private applicator.

Certified private applicator certificates may be issued to individuals who have paid: (a) A fee fixed by rules and regulations adopted by the secretary, except that on and after July 1, ~~2018~~ 2023, such fee shall not exceed \$10; and (b) who have acquired practical knowledge of pest problems, proper storage, use, handling and disposal of pesticides and pesticide containers, pertinent information found on the pesticide labels, pesticide use safety and environmental considerations, either through Kansas state university extension service educational training or through individual study of educational materials available at county extension offices or the secretary. The certified private applicator certificate fee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee therefor under this section. Individuals shall indicate adequate knowledge of the subjects enumerated herein by passing an open-book examination approved by the secretary.

Educational materials and examination blanks shall be made available at county extension offices and at places where extension educational training is conducted. The examinations shall be scored by members of the extension or secretary's staff. If an individual passes the examination by equaling or exceeding a standard authorized by the secretary, a cer-

tified private applicator's certificate shall be issued to such individual. Such staff member shall send a copy of the certificate issued, together with the fee, to the secretary.

A certified applicator who holds a current certificate to apply pesticides as a certified private applicator in any other state or political subdivision of the United States may be exempted from examination for private applicator certification in this state upon payment of proper fees and approval by the secretary.

Sec. 7. K.S.A. 2016 Supp. 2-3304 is hereby amended to read as follows: 2-3304. (a) Any user of the chemigation process shall register and obtain a chemigation user's permit before using the process.

(b) Registration shall consist of making application on a form supplied by the secretary. Such application shall include, but not be limited to:

(1) The name of the persons to whom a permit is to be issued, including an owner or operator of land on which chemigation is to be used;

(2) a plan for using anti-pollution devices;

(3) a plan for handling tail water or accumulations of water;

(4) the number and locations, including a legal description, of well-heads which may be involved in the chemigation process and surface water supply withdrawal points, not to include siphon tubes; and

(5) payment of fees.

(c) The application fee for a chemigation user's permit shall be \$75 plus \$15 for each additional point of diversion, except that on and after July 1, ~~2018~~ 2023, a chemigation user's permit shall be \$55 plus \$10 for each additional point of diversion. A chemigation user's permit may be renewed each year upon making an application, payment of the application fee and completing the report form providing information used in chemigation the previous year.

Sec. 8. K.S.A. 2016 Supp. 2-3306 is hereby amended to read as follows: 2-3306. (a) Any individual operating chemigation equipment under a chemigation user permit shall be responsible for the safe operation of such chemigation equipment and any such equipment shall be considered to be under the direct supervision of the chemigation user permit holder.

(b) The secretary shall not issue a chemigation user permit to any person unless such person is a certified chemigation equipment operator or has in such person's employment at least one certified chemigation equipment operator. A chemigation equipment operator is an individual who has successfully completed an examination given by the secretary or the secretary's designee. Except as provided in subsection (c), if the chemigation user permit is issued to an individual, that individual must have successfully completed the chemigation equipment operator examination. Such examination shall include, but not be limited to, the following:

(1) The proper use of anti-pollution devices;

- (2) preparing the chemical solution and filling the chemical supply container;
- (3) calibrating of injection equipment;
- (4) supervision of chemigation equipment to assure its safe operation;
- (5) environmental and human hazards that may be involved in chemigation;
- (6) protective clothing and respiratory equipment;
- (7) general precautions to be followed in disposal of containers and decontamination of the equipment;
- (8) handling of tail water and other accumulations of water containing chemicals;
- (9) information of procedures to be followed should chemicals inadvertently enter the water supply source as a result of the chemigation process;
- (10) label information, especially chemigation instructions;
- (11) applicable state and federal laws and regulations; and
- (12) any other subject which the secretary deems necessary.

(c) The examination provided for in subsection (b) may be waived for any individual who has been certified as a pesticide applicator in the category of chemigation pursuant to the Kansas pesticide law.

(d) The chemigation equipment operator certification shall expire on December 31 of the fourth calendar year after the year of issue. A chemigation equipment operator certification shall be renewed for a succeeding five year period upon payment of the certification fee and passing the examination specified in either subsection (b) or (c).

(e) The fee for certification as a chemigation equipment operator or for renewal of such certification shall be \$25, except that on and after July 1, ~~2018~~ 2023, such certification shall be \$10.

Sec. 9. K.S.A. 2016 Supp. 65-778 is hereby amended to read as follows: 65-778. (a) Any person who engages in business as a dairy manufacturing plant shall first apply for and obtain a dairy manufacturing plant license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a license fee of \$200.

(b) Any person who engages in business as a distributor of milk, milk products or dairy products shall first apply for and obtain a milk distributor license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a license fee of \$200. No milk distributor license shall be required for a licensed dairy manufacturing plant which distributes only those products which it manufactures.

(c) Any person who engages in business as a milk hauler shall first apply for and obtain a milk hauler license from the secretary and shall pay a license fee of \$25 or commencing July 1, 2002, and ending June

30, ~~2018~~ 2023, a license fee of \$35. As part of the application, the secretary may require the applicant to be tested regarding proper procedures for sampling, testing and weighing milk or cream and state laws and rules and regulations.

(d) Any person who operates a milk or cream transfer station or milk or cream receiving station shall first apply for and obtain a milk or cream station license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a license fee of \$100.

(e) Any person who engages in business as a manufacturer of single service dairy containers or manufacturer of single service dairy container closures shall first apply for and obtain a single service manufacturing license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a license fee of \$100.

(f) Any person who operates a milk tank truck cleaning facility shall first apply for and obtain a milk tank truck cleaning facility license from the secretary and shall pay a license fee of \$100.

(g) Any license issued under this section shall be renewed annually.

(h) The dairy manufacturing plant license, milk distributor license, milk tank truck cleaning facility license, milk or cream station license and single service manufacturing license shall expire on December 31 of the year for which it was issued unless suspended or revoked by the secretary pursuant to this act. The milk hauler license shall expire on June 30 following the date of issuance unless suspended or revoked by the secretary pursuant to this act.

(i) No license issued under this section shall be transferable. No license shall be renewed if any assessments or fees required under this act are delinquent.

(j) Each applicant for a license or for the renewal of such license shall submit an application on a form supplied by the secretary accompanied by the license fee. All licenses shall be conspicuously displayed in the applicant's place of business.

(k) The secretary ~~is authorized and directed to~~ shall reduce any license fee in subsections (a) through (f) *by adopting rules and regulations* whenever the secretary determines that such fee is yielding more than is necessary for administering the provisions of this act. The secretary ~~is authorized to~~ may increase any license fee in subsections (a) through (f); *by adopting rules and regulations* when such license fee is necessary to produce sufficient revenues for administering the provisions of this act. License fees in subsections (a) through (f) shall not be increased in excess of the *maximum* amounts provided in this section.

Sec. 10. On and after January 1, 2018, K.S.A. 2016 Supp. 65-781 is hereby amended to read as follows: 65-781. The following fees for the

statewide system of milk inspection and regulatory services are hereby established:

(a) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$.015 for each 100 pounds of milk produced by milk producers under Kansas grade A inspection shall be paid. Each producer is hereby charged with such fee which shall be paid to the milk producers' cooperative, milk processor or milk distributor to whom the milk is sold or delivered. Each cooperative, processor or distributor is hereby charged with the duty of collecting such fees which shall be remitted to the secretary.

(b) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$.02 for each 100 pounds of packaged grade A pasteurized milk or milk products sold in Kansas at retail to the final consumer shall be paid. Each distributor is hereby charged with such fee which shall be remitted to the secretary.

(c) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$.02 per 100 pounds or fraction thereof of grade A raw milk for pasteurization delivered to a milk processor within the state of Kansas which is processed into grade A milk or grade A milk products shall be paid. Each milk processor is hereby charged with such fee which shall be remitted to the secretary. This fee shall not be paid if the milk is processed or manufactured at the dairy where such milk is produced *and less than 7,000,000 pounds of milk are processed annually.*

(d) A milk fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$.015 per 100 pounds of milk or cream for manufacturing purposes produced by milk producers under Kansas manufacturing grade milk inspection shall be paid. Each producer is hereby charged with such fee which shall be paid to the milk producers' cooperative, dairy manufacturing plant or any other person to whom the milk or cream for manufacturing purposes is sold or delivered. Each cooperative, dairy manufacturing plant or other person is hereby charged with the duty of collecting such fees which shall be remitted to the secretary.

(e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$.02 per 100 pounds of Kansas produced milk or cream for manufacturing purposes or other Kansas produced milk delivered to a dairy manufacturing plant shall be paid on all Kansas milk used in the manufacturing of dairy products. As used in this subsection, the term dairy products shall not include any frozen dairy dessert or frozen dairy dessert mix. Each dairy manufacturing plant shall pay such fee which shall be remitted to the secretary. This fee shall not be paid if the milk is processed or manufactured at the dairy where such milk is produced *and less than 7,000,000 pounds of milk are processed annually.*

(f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$2 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix

shall be paid by the manufacturer thereof. Each manufacturer of frozen dairy dessert or frozen dairy dessert mix is hereby charged with such fee which shall be remitted to the secretary. Frozen dairy dessert mix which is further processed into the corresponding frozen dairy dessert by the manufacturer of the frozen dairy dessert mix shall not be subject to the fee required by this subsection.

(g) A fee of \$1, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$2 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix imported for retail sale in Kansas shall be paid by the milk distributor who imports these products.

(h) A fee of \$50 for the annual inspection of a milk tank truck as required by this act. The milk transportation company that owns or leases the milk tank truck shall pay such fee which shall be remitted to the secretary.

(i) If any fee computed pursuant to subsection (a) through (e) is less than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed fee. If any fee computed pursuant to subsection (f) or (g) is less than \$7.50, a minimum fee of \$7.50 shall be paid in lieu of the computed fee.

(j) All fees established herein shall be paid to the secretary in the following manner:

(1) The fees established in subsections (a) and (c) through (e) shall be remitted on or before the 30<sup>th</sup> day of each month for the calendar month immediately preceding and shall be accompanied by a report, in the form prescribed by the secretary, indicating the quantities upon which the remittance is based.

(2) The fees established in subsections (b), (f) and (g) shall be remitted on April 30, July 31, October 31 and January 31 for the three calendar months immediately preceding and shall be accompanied by a report, in the form prescribed by the secretary, indicating the quantities upon which the remittance is based.

(3) The fee established in subsection (h) shall be remitted within 60 days from the date of inspection.

(k) Any person who fails to remit all or any part of the required fee or to submit the required report by the date due may be assessed an additional charge equal to 1% of the amount of delinquent fees for each day after the date due, or \$5, whichever amount is greater.

(l) ~~The secretary is hereby authorized and directed to~~ *shall* reduce any inspection fee in subsections (a) through (h) *by adopting rules and regulations* whenever the secretary determines that such fee is yielding more than is necessary for administering the provisions of this act. The secretary ~~is authorized to~~ *may* increase any inspection fee in subsections (a) through (h) *by adopting rules and regulations* when such inspection fee is necessary to produce sufficient revenues for administering the provisions of this act. License fees in subsections (a) through (h) shall not be increased in excess of the *maximum* amounts provided in this section.



Sec. 11. K.S.A. 74-576 is hereby amended to read as follows: 74-576. In addition to the specific powers and duties conferred upon the secretary of agriculture by the laws of this state, the secretary is hereby authorized to:

(a) Make and enter into contracts and agreements necessary or incidental to the execution of the laws relating to the department of agriculture; ~~and~~

(b) *charge and collect, by order, a fee necessary for the administration and processing of paper documents, including applications, registrations, permits, licenses, certifications, renewals, reports and remittance of fees that are necessary or incidental to the execution of the laws relating to the department of agriculture, when an electronic system for processing such documents exists. Such fee shall be in addition to any fee the secretary is authorized to charge by law and may be up to 6% of such applicable fee amount, but shall not exceed \$50; and*

(c) foster and promote the development and economic welfare of the agricultural industry of the state.

Sec. 12. K.S.A. 2016 Supp. 82a-303b is hereby amended to read as follows: 82a-303b. (a) (1) In order to secure conformity with adopted rules and regulations and to assure compliance with the terms, conditions or restrictions of any consent or permit granted pursuant to the provisions of K.S.A. 82a-301 through 82a-303, and amendments thereto, the chief engineer or an authorized representative of the chief engineer shall have the power and the duty to inspect any dam or other water obstruction. Upon a finding pursuant to ~~subsection (a) of~~ K.S.A. 82a-303c(a), and amendments thereto, by the chief engineer that a dam is unsafe, the chief engineer shall order an annual inspection of the dam until it is either in compliance with all applicable provisions of this act, any rules and regulations promulgated pursuant to this act, permit conditions and orders of the chief engineer; or the dam is removed. The safety inspection shall be conducted by the chief engineer or authorized representative and the cost shall be paid by the dam owner. The class and size of a dam shall be defined by rules and regulations adopted by the chief engineer pursuant to K.S.A. 82a-303a, and amendments thereto. *For inspections conducted by the chief engineer or the chief engineer's authorized representative, inspection fees are as follows:*

Size of Dam	Inspection fee
<i>Class 1</i>	<i>\$1,500</i>
<i>Class 2</i>	<i>\$1,500</i>
<i>Class 3</i>	<i>\$2,500</i>
<i>Class 4</i>	<i>\$4,000</i>

(2) Each hazard class C dam shall be required to have a safety inspection conducted by a licensed professional engineer qualified in de-

sign, construction, maintenance and operation of dams once every three years, unless otherwise ordered by the chief engineer.

(3) Each hazard class B dam shall be required to have a safety inspection conducted by a licensed professional engineer qualified in design, construction, maintenance and operation of dams once every five years unless otherwise ordered by the chief engineer.

(4) Within 60 days of the date of inspection, a report of the inspection shall be provided to the chief engineer by the licensed professional engineer who conducted the inspection. The report shall document the physical condition of the dam, describing any deficiencies observed, an analysis of the capacity of the dam and its spillway works, compliance of the dam with approved plans and permit conditions, changes observed in the condition of the dam since the previous inspection, an assessment of the hazard classification of the dam including a statement that the engineer either agrees or disagrees with the current classification, and any other information relevant to the safety of the dam or specifically requested by the chief engineer.

(5) Upon failure of a dam owner to comply with the applicable inspection interval, the chief engineer or such chief engineer's authorized representative shall conduct a mandatory inspection of the dam and the costs as established by this act for the inspection shall be paid by the owner, in addition to any other remedies provided for violations of this act.

(6) The failure to file a complete and timely report as required by the provisions of this act, or the failure to submit the fees assessed for inspections conducted by the chief engineer or the chief engineer's authorized representative shall be deemed a violation of this act and subject to the penalties provided by K.S.A. 82a-305a, and amendments thereto.

(b) For the purpose of inspecting any dam or other water obstruction, the chief engineer or an authorized representative of the chief engineer shall have the right of access to private property. Costs for any work which may be required by the chief engineer or the authorized representative prior to or as a result of the inspection of a dam or other water obstruction shall be paid by the owner, governmental agency or operator of such dam or other water obstruction.

(c) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 2016 Supp. 82a-328, and amendments thereto.

Sec. 13. K.S.A. 2016 Supp. 82a-708a is hereby amended to read as follows: 82a-708a. (a) Any person may apply for a permit to appropriate water to a beneficial use, notwithstanding that the application pertains to the use of water by another, or upon or in connection with the lands of another. Any rights to the beneficial use of water perfected under such application shall attach to the lands on or in connection with which the

water is used and shall remain subject to the control of the owners of the lands as in other cases provided by law.

(b) Except as otherwise provided in subsections (d), (e) and (f), each application for a permit to appropriate water, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of acre feet in accordance with the following:

Acre Feet	Fee
0 to 100 .....	\$200
101 to 320 .....	\$300
More than 320 .....	\$300 + \$20
	for each additional 100 acre feet or any part thereof

On and after July 1, ~~2018~~ 2023, the application fee shall be fixed by this section for the appropriate category of acre feet in accordance with the following:

Acre Feet	Fee
0 to 100 .....	\$100
101 to 320 .....	\$150
More than 320 .....	\$150 + \$10
	for each additional 100 acre feet or any part thereof

The chief engineer shall render a decision on such permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(c) Except as otherwise provided in subsections (d), (e) and (f), each application for a permit to appropriate water for storage, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of storage-acre feet in accordance with the following:

Storage-Acre Feet	Fee
0 to 250 .....	\$200
More than 250 .....	\$200 + \$20
	for each additional 250 storage-acre feet or any part thereof

On and after July 1, ~~2018~~ 2023, the application fee shall be fixed by this section for the appropriate category of storage-acre feet in accordance with the following:

Storage-Acre Feet	Fee
0 to 250 .....	\$100
More than 250 .....	\$100 + \$10
	for each additional 250 storage-acre feet or any part thereof

The chief engineer shall render a decision on such permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(d) Each application for a term permit pursuant to K.S.A. 2016 Supp. 82a-736, and amendments thereto, shall be accompanied by an application fee established by rules and regulations of the chief engineer in an amount not to exceed \$400 for the five-year period covered by the permit.

(e) For any application for a permit to appropriate water, except applications for permits for domestic use, which proposes to appropriate by both direct flow and storage, the fee charged shall be the fee under subsection (b) or subsection (c), whichever is larger, but not both fees.

(f) Each application for a permit to appropriate water for water power or dewatering purposes shall be accompanied by an application fee of \$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the diversion rate requested in the application for the proposed project.

(g) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

Sec. 14. K.S.A. 2016 Supp. 82a-708b is hereby amended to read as follows: 82a-708b. (a) Any owner of a water right may change the place of use, the point of diversion or the use made of the water, without losing priority of right, provided such owner shall: (1) Apply in writing to the chief engineer for approval of any proposed change; (2) demonstrate to the chief engineer that any proposed change is reasonable and will not impair existing rights; (3) demonstrate to the chief engineer that any proposed change relates to the same local source of supply as that to which the water right relates; and (4) receive the approval of the chief engineer with respect to any proposed change. The chief engineer shall approve or reject the application for change in accordance with the provisions and procedures prescribed for processing original applications for permission to appropriate water. If the chief engineer disapproves the application for change, the rights, priorities and duties of the applicant shall remain unchanged. Any person aggrieved by an order or decision by the chief engineer relating to an application for change may petition for review thereof in accordance with the provisions of K.S.A. 2016 Supp. 82a-1901, and amendments thereto.

(b) Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less ..\$100
- (2) Application to change a point of diversion more than 300 feet .....200
- (3) Application to change the place of use .....200
- (4) Application to change the use made of water .....300

On and after July 1, ~~2018~~ 2023, the application fee shall be set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less ....\$50
- (2) Application to change a point of diversion more than 300 feet .....100
- (3) Application to change the place of use .....100
- (4) Application to change the use made of the water .....150

The chief engineer shall render a decision on such permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(c) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

Sec. 15. K.S.A. 2016 Supp. 82a-708c is hereby amended to read as follows: 82a-708c. (a) A term permit is a permit to appropriate water for a limited specified period of time in excess of six months. At the end of the specified time, or any authorized extension approved by the chief engineer, the permit shall be automatically dismissed, and any priority it may have had shall be forfeited. No water right shall be perfected pursuant to a term permit.

(b) Each application for a term permit to appropriate water shall be made on a form prescribed by the chief engineer and shall be accompanied by an application fee fixed by this section for the appropriate category of acre feet in accordance with the following:

Acre Feet	Fee
0 to 100 .....	\$200
101 to 320 .....	\$300
More than 320 .....	\$300 + \$20
	for each additional 100 acre feet or any part thereof

On and after July 1, ~~2018~~ 2023, the application fee shall be set forth in the schedule below:

Acre Feet	Fee
0 to 100 .....	\$100
101 to 320 .....	\$100
More than 320 .....	\$150 + \$10
	for each additional 100 acre feet or any part thereof

The chief engineer shall render a decision on such term permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(c) Each application for a term permit to appropriate water for storage, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of storage-acre feet in accordance with the following:

Storage-Acre Feet	Fee
0 to 250 .....	\$200
More than 250 .....	\$200 + \$20
	for each additional 250 acre feet or any part thereof

On and after July 1, ~~2018~~ 2023, the application fee shall be set forth in the schedule below:

Storage-Acre Feet	Fee
0 to 250 .....	\$100
More than 250 .....	\$100 + \$10
	for each additional 250 acre feet or any part thereof

The chief engineer shall render a decision on such term permit applications within 150 days of receiving a complete application except when the application cannot be processed due to the standards established in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of receipt of a complete application, the application fee is subject to refund upon request.

(d) Each application for a term permit pursuant to K.S.A. 2016 Supp. 82a-736, and amendments thereto, shall be accompanied by an application fee established by rules and regulations adopted by the chief engineer in an amount not to exceed \$400 for the five-year period covered by the permit.

(e) Notwithstanding the provisions of K.S.A. 82a-714, and amend-

ments thereto, the applicant is not required to file a notice of completion of diversion works nor pay a field inspection fee. The chief engineer shall not conduct a field inspection of the diversion works required by statute for purposes of certification nor issue a certificate of appropriation for a term permit.

(f) A request to extend the term of a term permit in accordance with the rules and regulations adopted by the chief engineer shall be accompanied by the same filing fee applicable to other requests for extensions of time as set forth in K.S.A. 82a-714, and amendments thereto.

(g) An application to change the place of use, point of diversion, use made of water, or any combination thereof, pursuant to K.S.A. 82a-708b, and amendments thereto, shall not be approved for a term permit, except as provided in K.S.A. 82a-736, and amendments thereto.

(h) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

Sec. 16. K.S.A. 2016 Supp. 82a-714 is hereby amended to read as follows: 82a-714. (a) Upon the completion of the construction of the works and the actual application of water to the proposed beneficial use within the time allowed, the applicant shall notify the chief engineer to that effect. The chief engineer or the chief engineer's duly authorized representative shall then examine and inspect the appropriation diversion works and, if it is determined that the appropriation diversion works have been completed and the appropriation right perfected in conformity with the approved application and plans, the chief engineer shall issue a certificate of appropriation in duplicate. The original of such certificate shall be sent to the owner and shall be recorded with the register of deeds in the county or counties wherein the point of diversion is located, as are other instruments affecting real estate, and the duplicate shall be made a matter of record in the office of the chief engineer.

(b) Not later than 60 days before the expiration of the time allowed in the permit to complete the construction of the appropriation diversion works or the time allowed in the permit to actually apply water to the proposed beneficial use, the chief engineer shall notify the permit holder by certified mail that any request for extension of such time must be filed with the chief engineer before the expiration of the time allowed in the permit.

(c) Unless the applicant requests an extension or the certificate has not been issued due to the applicant's failure to comply with reasonable requests for information or to allow the opportunity to examine and inspect the appropriation diversion works, as necessary for certification, the chief engineer shall certify an appropriation:

(1) Before July 1, 2004, if the time allowed in the permit to perfect the water right expired before July 1, 1999, except in those cases in which

abandonment proceedings pursuant to K.S.A. 82a-718, and amendments thereto, are pending on July 1, 2004;

(2) before July 1, 2006, in such cases in which an abandonment proceeding was pending pursuant to K.S.A. 82a-718, and amendments thereto, on July 1, 2004; or

(3) not later than five years after the date the applicant notifies the chief engineer of the completion of construction of the works and the actual application of water to the proposed beneficial use within the time allowed, in all other cases.

If the chief engineer fails to issue a certificate within the time provided by this subsection, the applicant may request review, pursuant to K.S.A. 2016 Supp. 82a-1901, and amendments thereto, of the chief engineer's failure to act.

(d) Except for works constructed to appropriate water for domestic use, each notification to the chief engineer under subsection (a) shall be accompanied by a field inspection fee of \$400, or on and after July 1, ~~2018~~ 2023, a fee of \$200, except that for applications filed on or after July 1, 2009, for works constructed for sediment control use and for evaporation from a groundwater pit for industrial use shall be accompanied by a field inspection fee of \$200. Failure to pay the field inspection fee, after reasonable notice by the chief engineer of such failure, shall result in the permit to appropriate water being revoked, forfeiture of the priority date and revocation of any appropriation right that may exist.

(e) A request for an extension of time to: (1) Complete the diversion works; or (2) perfect the water right, shall be accompanied by a fee of \$50, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$100.

(f) A request to reinstate a water right or a permit to appropriate water which has been dismissed shall be filed with the chief engineer within 60 days of the date dismissed and shall be accompanied by a fee of \$100, or commencing July 1, 2002, and ending June 30, ~~2018~~ 2023, a fee of \$200.

(g) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

Sec. 17. K.S.A. 2016 Supp. 82a-727 is hereby amended to read as follows: 82a-727. (a) Subject to existing water rights and the principle of beneficial use, the chief engineer may grant upon application made therefor temporary permits and extensions thereof to appropriate water in any case where the public interest in such water will not be unreasonably or prejudicially affected, except that the chief engineer shall not grant any such permit to appropriate fresh water in any case where other waters are available for the proposed use and the use thereof is technologically and economically feasible. No such temporary permit or any extension



thereof shall be granted for a period of time in excess of six months. Each application submitted for a temporary permit or extension thereof shall be accompanied by an application fee of \$200, or on and after July 1, ~~2018~~ 2023, a fee of \$100.

(b) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

(c) Nothing in this section shall be deemed to vest in the holder of any permit granted pursuant to provisions of this section any permanent right to appropriate water except as is provided by such permit.

(d) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

Sec. 18. K.S.A. 74-576 and K.S.A. 2016 Supp. 2-1205, 2-2204, 2-2440, 2-2440b, 2-2443a, 2-2445a, 2-3304, 2-3306, 65-778, 82a-303b, 82a-708a, 82a-708b, 82a-708c, 82a-714 and 82a-727 are hereby repealed.

Sec. 19. On and after January 1, 2018, K.S.A. 2016 Supp. 65-781 is hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its publication in the statute book.

Approved June 7, 2017.

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## CHAPTER 87

House Substitute for SENATE BILL No. 21  
(Amends Chapter 68)

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; employment after retirement; amending K.S.A. 2016 Supp. 74-4914, as amended by section 4 of 2017 Senate Bill No. 205, 74-4937, 74-49,204 and 74-49,313 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 74-4914, as amended by section 4 of 2017 Senate Bill No. 205, is hereby amended to read as follows: 74-4914.

(1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days, *or 180 days as provided in subsection (10)*, and without any prearranged agreement for employment with any participating employer, and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than

85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Such application shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, *or 180 days as provided in subsection (10)*, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer. Nothing herein shall prevent any person, member or retiree from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retiree shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b, and amendments thereto, and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days, *or 180 days as provided in subsection (10)*, and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe. The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, *or 180 days as provided in subsection (10)*, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(5) Except as provided in ~~subsection~~ *subsections (7) and (10)*, on or after July 1, 2006, *through December 31, 2017*, for any retiree who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retiree was employed or appointed during the final two years of such retiree's participation, and, on or after April 1, 2009, for any retiree who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such re-

tirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to ~~\$20,000 or more in any one such calendar year, or~~ \$25,000 or more in any one calendar year between July 1, 2016, and ~~July 1, 2020~~ *January 1, 2018*, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this act which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers *without a contract* or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature ~~prior to January 8, 2000~~. The provisions of this subsection shall not apply

to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official, except an elected city or county officer as further provided in this subsection, on and after the term of office of such other elected official which commences on or after July 1, 2000. Notwithstanding any provisions of law to the contrary, when an elected city or county officer is retired under the provisions of subsection (1) or (4) of this section and is paid an amount of compensation of \$25,000 or more in any one calendar year between July 1, 2016, and July 1, 2020, such officer may receive such officer's salary, and still be entitled to receive such officer's retirement benefit pursuant to the provisions of K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in K.S.A. 46-137a(b) and (d), and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment. *The provisions of the subsection shall expire on January 1, 2018.*

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.

(7) (a) (i) Except as provided in K.S.A. 74-4937(3), (4), or (5), and

amendments thereto, and the provisions of this subsection, commencing July 1, 2016, and ending ~~July 1, 2020~~ *January 1, 2018*, any retirant who is employed or appointed in or to any position by a participating employer, *an independent contractor* or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to \$25,000 or more, pursuant to this subsection. ~~The provisions of this subsection shall apply to members of the legislature.~~ *Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits.*

(ii) *Commencing January 1, 2018, for all retirements that occurred prior to such date, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such position. If a retirant is employed in a covered position, as defined in K.S.A. 2016 Supp. 74-49,202, and amendments thereto, the participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system.*

(b) The provisions of this subsection shall not apply, except as specifically provided in this subsection, to retirants who are:

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), (4) or (5), and amendments thereto. ~~Any retirant employed~~

~~by a school district in a position under K.S.A. 74-4937(3), (4) or (5), and amendments thereto, shall be subject to the provisions of subsection (7)(h) which relate to a limitation on the total term of employment with any participating employer in which a retirant may receive such retirant's full retirement benefit;~~

(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment;

(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and amendments thereto, or members of the state board of regents retirement plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;

(v) employed as substitute teachers *without a contract* or officers, employees or appointees of the legislature;

(vi) a poll worker hired to work an election day for a county election officer responsible for conducting all official elections held in the county; ~~and~~

(vii) employed by, or have accepted employment from, a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection. *Commencing January 1, 2018, the participating employer of a retirant described in this subsection (7)(b)(vii) who is employed in a covered position, as defined in K.S.A. 2016 Supp. 74-49,202, and amendments thereto, shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system; or*

(viii) *state or local elected officials. A retirant shall not be employed in an elected office within 30 days of such retirant's retirement, except that if a retirant is filling a vacant elected office, no waiting period shall be required.*

(c) The participating employer shall enroll all retirants, *including retirants under subsection (7)(b)(i), (ii), (iii), (vii) and (viii)*, and report to

the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. ~~Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits.~~ No retirant shall *make contributions to the system or* receive credit for service while employed under the provisions of this subsection.

(d) A participating employer may employ a retirant without regard to the compensation limitation in this subsection for a period of one calendar year or one school year, as the case may be, if the following requirements are met:

(i) The employer certifies to the board that the position being filled has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position;

(ii) the employer pays to the system a 30% employer contribution based on the retirant's compensation during any such period of employment. ~~On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retirants and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retirants, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in the case of the state, and to the agent for each other participating employer, a new rate if needed to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%; and~~

(iii) the employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits upon request of the committee.

*The provisions of this paragraph shall expire on January 1, 2018.*

(e) An employer may submit a written assurance protocol to the system to extend the exception provided for in subsection (7)(d) by one-year increments for a total extension not to exceed three years. A written assurance protocol shall be submitted to the system for each one-year increment extension. If a school district submits a written assurance pro-

tol, such written assurance protocol shall be signed by the superintendent and the board president of such school district. If a municipality, as defined in K.S.A. 75-1117, and amendments thereto, other than a school district, submits a written assurance protocol, such written assurance protocol shall be signed by the governing body or such governing body's designee for such municipality. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:

- (i) No applications were submitted for the position;
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
- (iii) if applications were submitted, none of the applicants possessed the appropriate licensure, certification or other necessary credentials for the position.

*The provisions of this paragraph shall expire on January 1, 2018.*

~~(f) On July 1, 2021, and at least every five years thereafter, the joint committee on pensions, investments and benefits shall study the issue of whether the compensation limitation prescribed in this subsection should be adjusted. The committee shall consider the effect of inflation and data on member retirement benefits and active employee compensation. Retirees who are independent contractors or employees of third-party entities who contract with a participating employer, shall not be subject to the compensation limitation or employer contribution requirements in this subsection or the requirements of subsection (7)(c) regarding enrollment and reporting to the system, so long as all of the following apply:~~

~~(A) The contractual relationship was not created to allow the retiree to continue employment with the participating employer after retirement in a position similar to the one such retiree held prior to retirement;~~

~~(B) the activities performed by the independent contractor or third-party entity are not normally performed exclusively by employees of that participating employer; and~~

~~(C) the retiree meets the classification of independent contractor as provided in K.S.A. 2016 Supp. 44-768, and amendments thereto, or activities performed by the third-party entity that employs the retiree are performed on a limited-term basis and the third-party entity is not a participating employer in the system.~~

(g) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

~~(h) Any retiree hired by any participating employer under the provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and amendments thereto, may continue to receive such retiree's full retirement benefit so long as, commencing July 1, 2016, such retiree's total term of employment with all participating employers under one or more of such~~



~~provisions does not exceed 48 months or four school years, whichever is less. After such period, such retirant shall not receive any retirement benefit for any month in any calendar year in which such retirant receives compensation in an amount equal to \$25,000 or more in such calendar year.~~

(8) If determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement and prior to the end of the subsequent 60-day waiting period, *or the 180-day waiting period under subsection (10)*, the monthly retirement benefit of such retirant shall be suspended during the period that begins on the month in which the retirant is re-employed and ends six months after the retirant's termination of such employment. The retirant shall repay to the retirement system all monthly retirement benefits paid to the retirant by the retirement system that the retirant received after such employment began. The participating employer which hired such retirant shall be required to pay to the system any fees, fines, penalties or any other cost imposed by the internal revenue service and indemnify the system for any cost incurred by the system to defend any action brought by the internal revenue service based on in-service distributions which are a result of any determined prearranged agreement and for any cost incurred by the system to collect any monthly retirement benefit required to be repaid by such retirant pursuant to this subsection.

(9) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

(10) (a) *Notwithstanding the provisions of subsection (5) or (7) to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a covered position, as defined in K.S.A. 2016 Supp. 74-49,202, and amendments thereto, or an independent contractor or a third-party entity who contracts service to fill such covered position shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such covered position. The participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or per-*

*forming duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year.*

*(b) Notwithstanding the provisions of subsection (5) or (7) to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a non-covered position, or an independent contractor or a third-party entity who contracts service to fill such non-covered position, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such non-covered position. No employer contribution shall be paid to the system on compensation paid to a retirant hired in a non-covered position.*

*(c) The participating employer shall enroll all retirants, including retirants under subsection (7)(b)(i), (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is 62 or older, or within 180 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is less than 62, and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.*

*(d) The provisions of this subsection relating to an earnings limitation and employer contributions shall not apply to any retirant described in subsection (7)(b) or to retirants who are independent contractors or employees of third-party entities who contract with a participating employer as described in subsection (7)(f), except as specifically provided in this subsection.*

*(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right that is not subject to amendment or nullification by act of the legislature.*

Sec. 2. K.S.A. 2016 Supp. 74-4937 is hereby amended to read as follows: 74-4937. (1) The normal retirement date of a member of the system who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, shall be the first day of the month coinciding with or following termination of employment not followed by

employment with any participating employer within 60 days, *or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto*, and without any prearranged agreement for employment with any participating employer, and the attainment of age 65 or, commencing July 1, 1986, age 65 or age 60 with the completion of 35 years of credited service or at any age with the completion of 40 years of credited service, or commencing July 1, 1993, any alternative normal retirement date already prescribed by law or age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. Each member upon giving prior notice to the appointing authority and the retirement system may retire on the normal retirement date or the first day of any month thereafter. Such member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, *or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto*, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(2) Any member who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, may retire before such member's normal retirement date on the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 60 days, *or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto*, and the attainment of age 55 with the completion of 10 years of credited service, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe. The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, *or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto*, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(3) ~~Before July 1, 2020,~~ The provisions of K.S.A. 74-4914(5), (7) and (10), and amendments thereto, which relate to an earnings limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein shall not apply to retirants who either retired under the provisions of K.S.A. 74-4914(1), and amendments thereto, related to normal retirement, or, if they retired under the provisions of K.S.A. 74-4914(4), and amendments thereto, related to early retirement, ~~were retired more than 60 days prior to May 28, 2009,~~ and are subsequently hired in a position that requires a license under K.S.A. 72-1388, and amendments thereto, or other provision of law. The provisions of this subsection shall only apply to retirants who retired prior to ~~May 1, 2015.~~

~~The provisions of this subsection do not apply to retirants who retired under K.S.A. 74-4914(4), and amendments thereto, which relates to early retirement prior to age 62 January 1, 2018. Except as otherwise provided, when a retirant is employed by the same school district or a different school district with which such retirant was employed during the final two years of such retirant's participation or employed as an independent contractor or by a third-party entity who contracts services with a school district to fill a position as described in this subsection, the participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. Commencing January 1, 2018, if a retirant is employed in a covered position, as defined in K.S.A. 2016 Supp. 74-49,202, and amendments thereto, the participating employer shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The provisions of this subsection shall expire on June 30, 2020. After such date the Kansas public employees retirement system and its actuary shall report the experience to the joint committee on pensions, investments and benefits.~~

(4) (a) On and after July 1, 2016, a school district may hire a retired licensed professional to fill a special teacher position as defined in K.S.A. 72-962, and amendments thereto, if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement

with such school district in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.

(b) A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. Such retirant may be employed by such employer for some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total term of employment with all employers under this subsection does not exceed 36 months or three school years, whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to the system a 30% employer contribution based on the retirant's compensation during any such period of employment. ~~On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retirants and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retirants, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in the case of the state, and to the agent for each other participating employer, a new rate if needed to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%. The provisions of this subsection shall not apply to retirants employed as substitute teachers *without a contract*. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retir-~~

ants employed as special teachers, except as specifically provided in this subsection.

(c) Each school district that uses the provisions of this subsection to hire retirants shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the special teacher positions. Upon request of the joint committee on pensions, investments and benefits, an employer shall provide such documentation to the committee. If the committee finds that an employer has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The committee shall notify the executive director of the system that a retirant's exemption has been revoked within 30 days of making such a determination.

(d) An employer may submit a written assurance protocol to the system to make a one-time extension to the exception provided for in this subsection by one year. Such written assurance protocol shall be signed by the superintendent and the board president of the school district. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:

- (i) No applications were submitted for the position;
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
- (iii) if applications were submitted, none of the applicants possessed an appropriate teaching license for the state of Kansas or possessed the appropriate credentials to receive any type of teaching license from the state of Kansas.

(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

(f) The provisions of this subsection shall expire on ~~July 1, 2020~~ *January 1, 2018*.

(5) (a) On and after July 1, 2016, a school district may hire a retired licensed professional to fill a non-special teacher position if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement with such school district, and if such school district hires a retirant for a hard-to-fill position in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant.

Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.

(b) The state board of education shall annually certify the top five types of licensed positions that are hard to fill. A school district may hire a retirant to fill a hard-to-fill position for some or all of a school year and in subsequent school years if the employer is unable to permanently fill the position with an active member. A retirant first hired under the provisions of this subsection may be retained by an employer even if such retirant's type of position is no longer one of the five types of positions certified by the state board of education. A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. Such retirant may be employed by such employer for some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total term of employment with all employers under this subsection does not exceed 36 months or three school years, whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to the system a 30% employer contribution based on the retirant's compensation during any such period of employment. ~~On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retirants and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retirants, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in the case of the state, and to the agent for each other participating employer, a new rate if needed to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%.~~ The provisions of this subsection shall not apply to retirants employed as substitute teachers *without a contract*. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection.

(c) Each school district that uses the provisions of this subsection to hire retirants for hard-to-fill positions shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the hard-to-fill positions. Upon request of the joint committee on pensions, investments and benefits, a school district shall provide such documentation to the committee. If the committee finds that a school district has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The committee shall notify the executive director of the system that a retirant's exemption has been revoked within 30 days of making such a determination.

(d) An employer may submit a written assurance protocol to the system to make a one-time extension to the exception provided for in this subsection by one year. Such written assurance protocol shall be signed by the superintendent and the board president of the school district. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:

- (i) No applications were submitted for the position;
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
- (iii) if applications were submitted, none of the applicants possessed an appropriate teaching license for the state of Kansas or possessed the appropriate credentials to receive any type of teaching license from the state of Kansas.

(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

(f) The provisions of this subsection shall expire on ~~July 1, 2020~~ *January 1, 2018*.

(6) The provisions of K.S.A. 74-4914(8), and amendments thereto, shall apply to retirants under the provisions of this section.

~~(7) Any retirant hired by any participating employer under the provisions of subsection (3), (4) or (5) or K.S.A. 74-4914(7)(d), and amendments thereto, may continue to receive such retirant's full retirement benefit so long as, commencing July 1, 2016, such retirant's total term of employment with all participating employers under one or more of such provisions does not exceed 48 months or four school years, whichever is less. After such period, such retirant shall not receive any retirement benefit for any month in any calendar year in which such retirant receives compensation in an amount equal to \$25,000 or more in such calendar year.~~

~~(8)~~—For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of



the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

Sec. 3. K.S.A. 2016 Supp. 74-49,204 is hereby amended to read as follows: 74-49,204. The normal retirement date for a member of the system first employed by a participating employer on or after July 1, 2009, shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days, *or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto, without any prearranged agreement for employment with any participating employer*, and the attainment of age 65 with the completion of five years of credited service, or age 60 with the completion of 30 years of credited service. The provisions of this section shall apply to a member of the retirement system who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto.

Sec. 4. K.S.A. 2016 Supp. 74-49,313 is hereby amended to read as follows: 74-49,313. (a) Except as provided in subsection (e), a member who has a nonforfeitable interest in the member's retirement annuity account, at any time after termination from service *with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto, and without any prearranged agreement for reemployment with any participating employer*, and the attainment of normal retirement age, shall receive an annuity based upon the balance in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate equal to the actuarial assumed investment rate of return established by the board minus 2%, as of the member's annuity start date. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(b) Except as provided in subsection (e), a member who has a vested interest in the member's retirement annuity account, who terminates covered employment *with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto, and without any prearranged agreement for reemployment with any participating employer*, without forfeiting such member's account, with the completion of at least 10 years of service, shall be eligible to receive, upon attainment of age 55, an annuity based upon employer credits and interest credits in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate established by the legislature as of the member's

annuity start date, and such interest rate shall be equal to the actuarially assumed investment rate of return established by the board minus 2%, as of the member's annuity start date. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(c) The form of benefit payable under subsections (a) and (b) shall be a single life annuity with 10-year certain. The member may elect any option described in K.S.A. 74-4918, and amendments thereto, except the partial lump-sum option, subject to actuarial factors established by the board from time to time. The benefit option selected may include a self-funded cost-of-living adjustment feature, in which the account value is converted to a benefit amount that increases by a fixed percentage over time. One or more fixed percentages shall be established by the board, which may be changed from time to time. In lieu of a part of an annuity, for a member entitled to a benefit under subsection (a), the member may elect to receive a lump-sum of such member's retirement annuity account of any fixed dollar amount or percent, but in no event may the lump-sum option elected under this section and the lump-sum option elected under K.S.A. 2016 Supp. 74-49,311(a), and amendments thereto, exceed 30% of the total value of such member's annuity savings account and retirement annuity account.

(d) Except as provided in subsection (e), in the case of an active or inactive member:

- (1) Who is vested in the member's retirement annuity account;
- (2) who has five or more years of service at death; and
- (3) who dies before attaining normal retirement age, with such member's spouse at time of death designated as such member's sole primary beneficiary, the member's surviving spouse on and after the date the member would have attained normal retirement age had such member not died, shall receive an annuity based upon employer credits and interest credits in the retirement annuity account, using factors established by the board by official action as of the beneficiary's annuity start date. The form of benefit shall be a single life annuity with 10-year certain.

(e) If a member's vested retirement annuity account is less than \$1,000 upon separation from service, or the total of the member's vested retirement annuity account and annuity savings account balance is less than \$1,000, the account balance or balances shall be mandatorily distributed to the member in accordance with section 401(a)(31)(B) of the federal internal revenue code. If the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly, then the board will pay the distribution to the member directly.

Sec. 5. K.S.A. 2016 Supp. 74-4914, as amended by section 4 of 2017

Senate Bill No. 205, 74-4937, 74-49,204 and 74-49,313 are hereby repealed.

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

Approved June 7, 2017.

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## CHAPTER 88

### SENATE BILL No. 83

AN ACT concerning abortion; relating to the woman's-right-to-know act; relating to certain physician information to be disclosed; amending K.S.A. 2016 Supp. 65-6709 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 65-6709 is hereby amended to read as follows: 65-6709. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

(a) At least 24 hours before the abortion the physician who is to perform the abortion or the referring physician has informed the woman in writing, *which shall be provided on white paper in a printed format in black ink with 12-point times new roman font*, of:

(1) ~~The name of~~ *following information concerning the physician who will perform the abortion;*

(A) *The name of such physician;*

(B) *the year in which such physician received a medical doctor's degree;*

(C) *the date on which such physician's employment commenced at the facility where the abortion is to be performed;*

(D) *whether any disciplinary action has been taken against such physician by the state board of healing arts by marking either a box indicating "yes" or a box indicating "no" and if the box indicating "yes" is marked, then provide the website addresses to the board documentation for each disciplinary action;*

(E) *whether such physician has malpractice insurance by marking either a box indicating "yes" or a box indicating "no";*

(F) *whether such physician has clinical privileges at any hospital located within 30 miles of the facility where the abortion is to be performed by marking either a box indicating "yes" or a box indicating "no" and if the box indicating "yes" is marked, then provide the name of each such hospital and the date such privileges were issued;*

(G) *the name of any hospital where such physician has lost clinical privileges; and*

(H) *whether such physician is a resident of this state by marking either a box indicating “yes” or a box indicating “no”;*

(2) a description of the proposed abortion method;

(3) a description of risks related to the proposed abortion method, including risk of premature birth in future pregnancies, risk of breast cancer and risks to the woman’s reproductive health and alternatives to the abortion that a reasonable patient would consider material to the decision of whether or not to undergo the abortion;

(4) the probable gestational age of the unborn child at the time the abortion is to be performed and that Kansas law requires the following: “No person shall perform or induce an abortion when the unborn child is viable unless such person is a physician and has a documented referral from another physician not financially associated with the physician performing or inducing the abortion and both physicians determine that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible physical impairment of a major bodily function of the pregnant woman.” If the child is born alive, the attending physician has the legal obligation to take all reasonable steps necessary to maintain the life and health of the child;

(5) the probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed;

(6) the contact information for counseling assistance for medically challenging pregnancies, the contact information for perinatal hospice services and a listing of websites for national perinatal assistance, including information regarding which entities provide such services free of charge;

(7) the medical risks associated with carrying an unborn child to term; and

(8) any need for anti-Rh immune globulin therapy, if she is Rh negative, the likely consequences of refusing such therapy and the cost of the therapy.

(b) At least 24 hours before the abortion, the physician who is to perform the abortion, the referring physician or a qualified person has informed the woman in writing that:

(1) Medical assistance benefits may be available for prenatal care, childbirth and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials given to her and described in K.S.A. 65-6710, and amendments thereto;

(2) the informational materials in K.S.A. 65-6710, and amendments thereto, are available in printed form and online, and describe the unborn child, list agencies which offer alternatives to abortion with a special section listing adoption services and list providers of free ultrasound services;

(3) the father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion except that in the case of rape this information may be omitted;

(4) the woman is free to withhold or withdraw her consent to the abortion at any time prior to invasion of the uterus without affecting her right to future care or treatment and without the loss of any state or federally-funded benefits to which she might otherwise be entitled;

(5) the abortion will terminate the life of a whole, separate, unique, living human being; and

(6) by no later than 20 weeks from fertilization, the unborn child has the physical structures necessary to experience pain. There is evidence that by 20 weeks from fertilization unborn children seek to evade certain stimuli in a manner that in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are 20 weeks from fertilization or older who undergo pre-natal surgery.

(c) At least 30 minutes prior to the abortion procedure, prior to physical preparation for the abortion and prior to the administration of medication for the abortion, the woman shall meet privately with the physician who is to perform the abortion and such person's staff to ensure that she has an adequate opportunity to ask questions of and obtain information from the physician concerning the abortion.

(d) At least 24 hours before the abortion, the woman is given a copy of the informational materials described in K.S.A. 65-6710, and amendments thereto. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

(e) The woman certifies in writing on a form provided by the department, prior to the abortion, that the information required to be provided under subsections (a), (b) and (d) has been provided and that she has met with the physician who is to perform the abortion on an individual basis as provided under subsection (c). All physicians who perform abortions shall report the total number of certifications received monthly to the department. The total number of certifications shall be reported by the physician as part of the written report made by the physician to the secretary of health and environment under K.S.A. 65-445, and amendments thereto. The department shall make the number of certifications received available on an annual basis.

(f) Prior to the performance of the abortion, the physician who is to perform the abortion or the physician's agent receives a copy of the written certification prescribed by subsection (e) of this section.

(g) The woman is not required to pay any amount for the abortion procedure until the 24-hour waiting period has expired.

(h) A physician who will use ultrasound equipment preparatory to or in the performance of the abortion, at least 30 minutes prior to the performance of the abortion:

- (1) Informs the woman that she has the right to view the ultrasound image of her unborn child, at no additional expense to her;
- (2) informs the woman that she has the right to receive a physical picture of the ultrasound image, at no additional expense to her;
- (3) offers the woman the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image;
- (4) certifies in writing that the woman was offered the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image at least 30 minutes prior to the performance of the abortion; and
- (5) obtains the woman's signed acceptance or rejection of the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image.

If the woman accepts the offer and requests to view the ultrasound image, receive a physical picture of the ultrasound image or both, her request shall be granted by the physician at no additional expense to the woman. The physician's certification shall be time-stamped at the time the opportunity to view the ultrasound image and receive a physical picture of the ultrasound image was offered.

(i) A physician who will use heart monitor equipment preparatory to or in the performance of the abortion, at least 30 minutes prior to the performance of the abortion:

- (1) Informs the woman that she has the right to listen to the heartbeat of her unborn child, at no additional expense to her;
- (2) offers the woman the opportunity to listen to the heartbeat of her unborn child;
- (3) certifies in writing that the woman was offered the opportunity to listen to the heartbeat of her unborn child at least 30 minutes prior to the performance of the abortion; and
- (4) obtains the woman's signed acceptance or rejection of the opportunity to listen to the heartbeat of her unborn child.

If the woman accepts the offer and requests to listen to the heartbeat of her unborn child, her request shall be granted by the physician at no additional expense to the woman. The physician's certification shall be time-stamped at the time the opportunity to listen to the heartbeat of her unborn child was offered.

(j) The physician's certification required by subsections (h) and (i) together with the pregnant woman's signed acceptance or rejection of such offer shall be placed in the woman's medical file in the physician's office and kept for 10 years. However, in the case of a minor, the physician shall keep a copy of the certification and the signed acceptance or rejection in the minor's medical file for five years past the minor's majority, but in no event less than 10 years.

(k) Any private office, freestanding surgical outpatient clinic or other facility or clinic in which abortions are performed shall conspicuously post

a sign in a location so as to be clearly visible to patients. The sign required pursuant to this subsection shall be printed with lettering that is legible and shall be at least three quarters of an inch boldfaced type. The sign shall include the address for the pregnancy resources website published and maintained by the department of health and environment, and the following text:

Notice: It is against the law for anyone, regardless of their relationship to you, to force you to have an abortion. By law, we cannot perform an abortion on you unless we have your freely given and voluntary consent. It is against the law to perform an abortion on you against your will. You have the right to contact any local or state law enforcement agency to receive protection from any actual or threatened physical abuse or violence. You have the right to change your mind at any time prior to the actual abortion and request that the abortion procedure cease. It is unlawful for anyone to make you have an abortion against your will, even if you are a minor. The father of your child must provide support for the child, even if he has offered to pay for an abortion. If you decide not to have an abortion, you may qualify for financial help for pregnancy, childbirth and newborn care. If you qualify, medicaid will pay or help pay the cost of doctor, clinic, hospital and other related medical expenses, including childbirth delivery services and care for your newborn baby. Many agencies are willing to provide assistance so that you may carry your child to term, and to assist you after your child's birth.

The provisions of this subsection shall not apply to any private office, freestanding surgical outpatient clinic or other facility or clinic which performs abortions only when necessary to prevent the death of the pregnant woman.

(l) Any private office, freestanding surgical outpatient clinic or other facility or clinic in which abortions are performed that has a website shall publish an easily identifiable link on the homepage of such website that directly links to the department of health and environment's website that provides informed consent materials under the woman's-right-to-know act. Such link shall read: "The Kansas Department of Health and Environment maintains a website containing information about the development of the unborn child, as well as video of sonogram images of the unborn child at various stages of development. The Kansas Department of Health and Environment's website can be reached by clicking here."

(m) For purposes of this section:

(1) The term "human being" means an individual living member of the species of homo sapiens, including the unborn human being during the entire embryonic and fetal ages from fertilization to full gestation.

(2) The term "medically challenging pregnancy" means a pregnancy where the unborn child is diagnosed as having: (A) A severe anomaly; or (B) an illness, disease or defect which is invariably fatal.

New Sec. 2. If any of the provisions of article 67 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, are temporarily or permanently enjoined or otherwise restricted and not given their full force and effect by judicial order, all other provisions of article 67 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, not so enjoined or otherwise restricted shall be enforced as though such enjoined or otherwise restricted provisions had not been enacted, provided, that if any such temporary or permanent injunction or other judicial order is stayed, lifted, dissolved or otherwise ceases to have effect, then such provisions shall have full force and effect.

Sec. 3. K.S.A. 2016 Supp. 65-6709 is hereby repealed.

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

Approved June 7, 2017.

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## CHAPTER 89

Senate Substitute for HOUSE BILL No. 2132

AN ACT concerning port authorities; relating to the sale of property; amending K.S.A. 2016 Supp. 12-3412 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 12-3412 is hereby amended to read as follows: 12-3412. (a) No contract for the construction, alteration or repair of any building, structure or other improvement undertaken by a port authority created in accordance with K.S.A. 12-3402, and amendments thereto, and involving an expenditure exceeding \$10,000 shall be awarded by the port authority unless a notice calling for bids shall have been given by publication in the Kansas register at least 30 days prior to the opening of such bids. No contract requiring public bids shall be awarded except to the lowest responsible bidder, except when bids are received from one or more disadvantaged business enterprises and any applicable funding guidelines require, such contracts may be negotiated to assure disadvantaged business participation in the project. Every contract awarded which requires public bids shall be in writing and signed by the chairperson of the port authority and by the contractor and, if the contract involves work or construction, it shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority.

(b) In exercising the port authority's power to sell real or personal property, the port authority may seek public bids upon specifications approved by the port authority or the port authority may negotiate the sale



of any real or personal property upon such terms as the port authority deems to be in the public interest, except that a negotiated sale of any real or personal property shall be subject to the following:

(1) The current lessee of such property shall have the first right to purchase such property;

(2) such property shall be appraised by an independent appraiser prior to such sale of property; and

(3) such sale of property shall be for no less than the appraised value of such property, *unless the port authority declares that selling it at less than appraised value is in the public interest due to the return of new jobs, capital investment or increased tax revenue.*

(c) Notwithstanding the provisions of this section or any other provision of state law to the contrary, the provisions of subsection (b) shall not apply to any negotiated sale-purchase agreements, lease agreements, lease-purchase agreements or lease agreements containing an option to purchase, installment sale contracts, purchase options or other similar instruments entered into by a port authority prior to July 1, 1987, nor any amendments or restatements to such agreements, contracts, options or instruments that were made, entered into or became effective after such date.

Sec. 2. K.S.A. 2016 Supp. 12-3412 is hereby repealed.

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

Approved June 9, 2017.

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CHAPTER 90

House Substitute for SENATE BILL No. 42

AN ACT concerning children and minors; relating to the revised Kansas juvenile justice code; amending K.S.A. 2015 Supp. 38-2304, as amended by section 30 of chapter 46 of the 2016 Session Laws of Kansas, 38-2342, as amended by section 36 of chapter 46 of the 2016 Session Laws of Kansas, 38-2361, as amended by section 42 of chapter 46 of the 2016 Session Laws of Kansas, 38-2368, as amended by section 45 of chapter 46 of the 2016 Session Laws of Kansas, 38-2369, as amended by section 46 of chapter 46 of the 2016 Session Laws of Kansas and 38-2375, as amended by section 51 of chapter 46 of the 2016 Session Laws of Kansas and K.S.A. 2016 Supp. 38-2330, 38-2346, 38-2391, 38-2392, 38-2398, 75-52,161, 75-52,162, 75-52,164 and 75-6704 and repealing the existing sections.

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

New Section 1. (a) When a juvenile is removed from the home for the first time pursuant to the revised Kansas juvenile justice code, the judge shall consider and make, if appropriate, the following findings:

(1) (A) The juvenile is likely to sustain harm if not immediately removed from the home;

(B) allowing the juvenile to remain in the home is contrary to the welfare of the juvenile; or

(C) immediate placement of the juvenile is in the juvenile's best interest; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile.

(b) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

Sec. 2. K.S.A. 2015 Supp. 38-2304, as amended by section 30 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2304. (a) Except as provided in K.S.A. ~~2015~~ 2016 Supp. 38-2347, and amendments thereto, proceedings concerning a juvenile shall be governed by the provisions of this code.

(b) The district court shall have original jurisdiction to receive and determine proceedings under this code.

(c) When a complaint is filed under this code, the juvenile shall be presumed to be subject to this code, unless the contrary is proved.

(d) Once jurisdiction is acquired by the district court over an alleged juvenile offender, except as otherwise provided in subsection (e), jurisdiction shall continue until one of the following occurs:

(1) The complaint is dismissed;

(2) the juvenile is adjudicated not guilty at trial;

(3) the juvenile, after being adjudicated guilty and sentenced:

(i) Successfully completes the term of probation;

(ii) is discharged by the secretary pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2376, and amendments thereto;

(iii) reaches the juvenile's 21<sup>st</sup> birthday and no exceptions apply that extend jurisdiction beyond age 21; or

(iv) reaches the overall case length limit;

(4) the court terminates jurisdiction; or

(5) the juvenile is convicted of a crime as an adult pursuant to chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

(e) Once jurisdiction is acquired by the district court over an alleged juvenile offender, it shall continue beyond the juvenile offender's 21<sup>st</sup> birthday but no later than the juvenile offender's 23<sup>rd</sup> birthday if:

(1) The juvenile offender is sentenced pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369, and amendments thereto, and the term of the sentence including successful completion of conditional release extends beyond the juvenile offender's 21<sup>st</sup> birthday but does not extend beyond the overall case length limit; or

(2) the juvenile offender is sentenced pursuant to an extended jurisdiction juvenile prosecution and continues to successfully serve the sentence imposed pursuant to the revised Kansas juvenile justice code.

(f) Termination of jurisdiction pursuant to this section shall have no effect on the juvenile offender's continuing responsibility to pay restitution ordered.

(g) (1) If a juvenile offender, at the time of sentencing, is in an out of home placement in the custody of the secretary for children and families under the Kansas code for care of children, the sentencing court may order the continued placement of the juvenile offender as a child in need of care. ~~In such case, the secretary for children and families shall address issues of abuse and neglect by parents and prepare parents for the child's return home.~~

(2) Court services, community corrections and the department of corrections shall address the risks and needs of the juvenile offender according to the results of the risk and needs assessment.

(3) If the juvenile offender is placed in the custody of the secretary of corrections, the secretary for children and families shall be responsible for collaborating with the department of corrections to furnish services ordered in the child in need of care proceeding during the time of the placement pursuant to the revised Kansas juvenile justice code. Nothing in this subsection shall preclude the juvenile offender from accessing services provided by the Kansas department for children and families or any other state agency if the juvenile offender is otherwise eligible for the services.

(h) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a proceeding under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, a proceeding under article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, a proceeding under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators, or a comparable case in another jurisdiction, except as provided by K.S.A. ~~2015~~ 2016 Supp. 23-37,101 et seq., and amendments thereto, uniform child custody jurisdiction and enforcement act.

Sec. 3. K.S.A. 2016 Supp. 38-2330 is hereby amended to read as follows: 38-2330. (a) A law enforcement officer may take a juvenile into custody when:

- (1) Any offense has been or is being committed in the officer's view;
- (2) the officer has a warrant commanding that the juvenile be taken into custody;
- (3) the officer has probable cause to believe that a warrant or order

commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein;

(4) the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute:

(A) A felony; or

(B) a misdemeanor and: (i) The juvenile will not be apprehended or evidence of the offense will be irretrievably lost unless the juvenile is immediately taken into custody; or (ii) the juvenile may cause injury to self or others or damage to property or may be injured unless immediately taken into custody;

(5) the officer has probable cause to believe that the juvenile has violated an order for electronic monitoring as a term of probation; or

(6) the officer receives a written statement pursuant to subsection (c).

(b) A court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may take a juvenile into custody when: (1) There is a warrant commanding that the juvenile be taken into custody; or (2) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein.

(c) Any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may request a warrant by giving the court a written statement setting forth that the juvenile, in the judgment of the court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, ~~has~~:

(1) (A) *Has* violated the condition of the juvenile's conditional release from detention or probation, for the third or subsequent time; *and*

(B) ~~and the juvenile~~ poses a significant risk of physical harm to another or damage to property; *or*

(2) *has absconded from supervision.*

(d) (1) A juvenile taken into custody by a law enforcement officer or other person authorized pursuant to subsection (b) shall be brought without unnecessary delay to the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe that such action would not be in the best interests of the child or would pose a risk to public safety or property.

(2) If the juvenile cannot be delivered to the juvenile's parent or custodian, the officer may:

(A) Issue a notice to appear pursuant to subsection (g); or

(B) contact or deliver the juvenile to an intake and assessment worker for completion of the intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto.

(3) It shall be the duty of the officer to furnish the county or district attorney and the juvenile intake and assessment worker if the officer has delivered the juvenile to the worker or issued a notice to appear consistent with subsection (g), with all of the information in the officer's possession pertaining to the juvenile, the juvenile's parent or other persons interested in or likely to be interested in the juvenile and all other facts and circumstances which caused the juvenile to be arrested or taken into custody.

(e) In the absence of a court order to the contrary, the court or officials designated by the court, the county or district attorney or the law enforcement agency taking a juvenile into custody shall direct the release prior to the time specified by K.S.A. 2016 Supp. 38-2343(a), and amendments thereto. In addition, pursuant to K.S.A. 75-7023 and K.S.A. 2016 Supp. 38-2346, and amendments thereto, a juvenile intake and assessment worker shall direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process.

(f) Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. If such person is eligible for detention, and all suitable alternatives to detention have been exhausted, the person shall be detained in jail. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the person shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and amendments thereto, relating to appearance bonds and review of conditions and release shall be applicable to appearance bonds provided for in this section.

(g) (1) Whenever a law enforcement officer detains any juvenile and such juvenile is not immediately taken to juvenile intake and assessment services, the officer may serve upon such juvenile a written notice to appear. Such notice to appear shall contain the name and address of the juvenile detained, the crime charged and the location and phone number of the juvenile intake and assessment services office where the juvenile will need to appear with a parent or guardian.

(2) The juvenile intake and assessment services office specified in such notice to appear must be contacted by the juvenile or a parent or

guardian no more than 48 hours after such notice is given, excluding weekends and holidays.

(3) The juvenile detained, in order to secure release as provided in this section, must give a written promise to call within the time specified by signing the written notice prepared by the officer. The original notice shall be retained by the officer and a copy shall be delivered to the juvenile detained and that juvenile's parent or guardian if such juvenile is under 18 years of age. The officer shall then release the juvenile.

(4) The law enforcement officer shall cause to be filed, without unnecessary delay, a complaint with juvenile intake and assessment services in which a juvenile released pursuant to paragraph (3) is given notice to appear, charging the crime stated in such notice. A copy shall also be provided to the district or county attorney. If the juvenile released fails to contact juvenile intake and assessment services as required in the notice to appear, juvenile intake and assessment services shall notify the district or county attorney.

(5) The notice to appear served pursuant to paragraph (1) and the complaint filed pursuant to paragraph (4) may be provided to the juvenile in a single citation.

Sec. 4. K.S.A. 2015 Supp. 38-2342 as amended by section 36 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2342. The court may issue a warrant commanding the juvenile be taken into custody if there is probable cause to believe: (a) That an offense was committed and it was committed by the juvenile; (b) the juvenile violated probation, conditional release, or conditions of release from detention for a third or subsequent time and the juvenile poses a significant risk of physical harm to another or damage to property; ~~or~~ (c) the juvenile has escaped from a facility; *or (d) the juvenile has absconded from supervision.* The warrant shall designate where or to whom the juvenile is to be taken pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2330(d)(1), and amendments thereto, if the court is not open for the regular conduct of business. The warrant shall describe the offense or violation charged in the complaint or the applicable circumstances of the juvenile's absconding or escaping.

Sec. 5. K.S.A. 2016 Supp. 38-2346 is hereby amended to read as follows: 38-2346. (a) Each director of juvenile intake and assessment services in collaboration with the county or district attorney shall adopt a policy and establish guidelines for an immediate intervention process by which a juvenile may avoid prosecution. The guidelines may include information on any offenders beyond those enumerated in subsection (b)(1) that shall be referred to immediate intervention. In addition to juvenile intake and assessment services adopting policies and guidelines for the immediate intervention process, the court, the county or district attorney, the director of the intake and assessment center and other relevant in-

dividuals or organizations, pursuant to a written agreement, shall collaboratively develop local programs to:

(1) Provide for the direct referral of cases to immediate intervention programs by the county or district attorney and the intake and assessment worker.

(2) Allow intake and assessment workers to issue a summons, as defined in subsection (e) and if juvenile intake and assessment services has adopted appropriate policies and guidelines, allow law enforcement officers to issue such a summons.

(3) Allow the intake and assessment centers and other immediate intervention program providers to directly purchase services for the juvenile and the juvenile's family.

(4) Allow intake and assessment workers to direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto.

(b) (1) A juvenile who goes through the juvenile intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto, shall be offered the opportunity to participate in an immediate intervention program and avoid prosecution if the juvenile is charged with a misdemeanor *that is not an offense described in chapter 55 of article 21 of the Kansas Statutes Annotated, and amendments thereto*, or a violation of K.S.A. 2016 Supp. 21-5507, and amendments thereto, the juvenile has no prior adjudications, and the offer is made pursuant to the guidelines developed pursuant to this section. *Participation in an immediate intervention program is not required to be offered to a juvenile who was originally charged with an offense which, if committed by an adult, would constitute a felony and, as a result of a plea agreement reached between the juvenile and prosecuting attorney, the charge has been amended to a misdemeanor. A juvenile who has participated in an immediate intervention program for a previous misdemeanor may, but is not required to, be offered participation in an immediate intervention program.*

(2) A juvenile may also participate in an immediate intervention program if the juvenile is referred for immediate intervention by the county or district attorney pursuant to subsection (d).

(3) Any juvenile referred to immediate intervention by juvenile intake and assessment services shall, upon acceptance, work together with court services, community corrections, juvenile intake and assessment services or any other entity designated as a part of the written agreement in subsection (a) to develop an immediate intervention plan. Such plan may be supervised or unsupervised by any of the aforementioned entities. The county or district attorneys office shall not be required to supervise juveniles participating in an immediate intervention program.

(4) The immediate intervention plan shall last no longer than six months from the date of referral, unless the plan requires the juvenile to

complete an evidence-based mental health or substance abuse program that extends beyond the six-month period. In such case, the plan may be extended up to two additional months.

(5) If the juvenile satisfactorily complies with the immediate intervention plan, such juvenile shall be discharged and the charges dismissed at the end of the time period specified in paragraph (4).

(6) If the juvenile fails to satisfactorily comply with the immediate intervention plan, the case shall be referred to a multidisciplinary team for review. The multidisciplinary team created pursuant to K.S.A. 2016 Supp. 38-2393, and amendments thereto, shall review the immediate intervention plan within seven days and may revise and extend such plan or terminate the case as successful. Such plan may be extended for no more than four additional months.

(7) If the juvenile fails to satisfactorily comply with the revised plan developed pursuant to paragraph (6), the intake and assessment worker, court services officer or community corrections officer overseeing the immediate intervention shall refer the case to the county or district attorney for consideration.

(c) The parent of a juvenile may be required to be a part of the immediate intervention program.

(d) For all juveniles that have fewer than two prior adjudications, the county or district attorney shall review the case upon receipt of a complaint to determine if the case should be referred for immediate intervention or whether alternative means of adjudication should be designated pursuant to K.S.A. 2016 Supp. 38-2389, and amendments thereto. The county or district attorney shall consider any recommendation of a juvenile intake and assessment worker, court services officer or community corrections officer.

(e) “Summons” means a written order issued by an intake and assessment worker or a law enforcement officer directing that a juvenile appear before a designated court at a stated time and place to answer a pending charge.

(f) A juvenile who is eligible for an immediate intervention shall not be denied participation in such a program or terminated unsuccessfully due to an inability to pay fees or other associated costs. Fees assessed from such a program shall be retained by the program and shall not be used for any purpose, except development and operation of the program.

(g) If a juvenile substantially complies with an immediate intervention program, charges in such juvenile’s case shall not be filed.

(h) The policies and guidelines developed pursuant to subsection (a) shall adhere to standards and procedures for immediate intervention developed by the department of corrections pursuant to K.S.A. 2016 Supp. 38-2395, and amendments thereto, and be based on best practices.

(i) *Nothing in this section shall require a juvenile to participate in an*



*immediate intervention program when the county or district attorney has declined to continue with prosecution of an alleged offense.*

Sec. 6. K.S.A. 2015 Supp. 38-2361, as amended by section 42 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2368, and amendments thereto the court may impose one or more of the following sentencing alternatives for a fixed period pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369 and ~~section 4~~ 38-2391, and amendments thereto.

(1) Place the juvenile on probation for a fixed period pursuant to ~~section 4~~ K.S.A. 2016 Supp. 38-2391, and amendments thereto, subject to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community. Any juvenile placed on probation shall be supervised according to the juvenile's risk and needs as determined by a risk and needs assessment. Placement of juvenile offenders to community corrections for probation supervision shall be limited to offenders adjudicated for an offense that are determined to be moderate-risk, high-risk or very high-risk on a risk and needs assessment using the cutoff scores established by the secretary pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2360, and amendments thereto.

(2) Order the juvenile to participate in a community based program available in such judicial district subject to the terms and conditions the court deems appropriate. This alternative shall not be ordered with the alternative in paragraph (11). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(3) Place the juvenile in the custody of a parent or other suitable person, which is not a group home or other facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, subject to terms and conditions consistent with juvenile justice programs in the community. This alternative shall not be ordered with the alternative in paragraph (11). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(4) Order the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug evaluation pursuant to subsection (b).

(5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (c).

(6) Order the juvenile to perform charitable or community service work.

(7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection (d).

(8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

(9) Place the juvenile under a house arrest program administered by the court pursuant to K.S.A. ~~2015~~ 2016 Supp. 21-6609, and amendments thereto.

(10) Place the juvenile in the custody of the secretary of corrections as provided in K.S.A. ~~2015~~ 2016 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with the alternative in paragraph (3) or (12). Except for mandatory drug and alcohol evaluation, when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such orders shall constitute a recommendation by the court. Requirements pertaining to child support shall apply under this alternative. The provisions of this paragraph shall expire on January 1, 2018.

(11) Upon a violation of a condition of sentence, other than a technical violation pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2368, and amendments thereto, commit the juvenile to detention for a period no longer than 30 days subject to the provisions of subsection (g).

(12) If the judge finds and enters into the written record that the juvenile poses a significant risk of harm to another or damage to property, and the juvenile is otherwise eligible for commitment pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369, and amendments thereto, commit the juvenile directly to the custody of the secretary of corrections for placement in a juvenile correctional facility or a youth residential facility. Placement in a youth residential facility shall only be permitted as authorized in K.S.A. ~~2015~~ 2016 Supp. 38-2369(e), and amendments thereto. If the court elects, a period of conditional release pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369, and amendments thereto, may also be ordered. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. Twenty-one days prior to the juvenile's release from a juvenile correctional facility, the secretary of corrections or designee shall notify the court of the juvenile's anticipated release date. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

(13) *Upon a finding by the trier of fact during adjudication that a firearm was used in the commission of an offense by the accused which, if committed by an adult, would constitute a felony, a judge may commit the juvenile directly to the custody of the secretary of corrections for placement in a juvenile correctional facility or youth residential facility for a minimum term of six months and up to a maximum term of 18 months, regardless of the risk level of such juvenile as determined by a risk and needs assessment. If the juvenile is committed to the custody of the secretary, and the court elects, a period of conditional release, pur-*

*suant to K.S.A. 2016 Supp. 38-2369, and amendments thereto, may also be ordered. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. Twenty-one days prior to the juvenile's release from a juvenile correctional facility or youth residential facility, the secretary of corrections or the secretary's designee shall notify the court of the juvenile's anticipated release date.*

(b) If the court orders the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the following provisions apply:

(1) The court may order the juvenile offender to participate in counseling or mediation sessions or a program of education, including placement in an alternative educational program approved by a local school board. The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative. Mediation may include the victim but shall not be mandatory for the victim; and

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the juvenile to submit to and complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12 months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the secretary of corrections or the department of corrections nor shall the fee be assessed against the secretary of the department for children and families or the Kansas department for children and families if the juvenile is in the secretary's care, custody and control.

(c) If the court orders suspension or restriction of a juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (a)(5), the following provisions apply:

(1) The duration of the suspension ordered by the court shall be for

a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the juvenile offender may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any juvenile offender who does not have a driver's license may have driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court; and

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender

may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which the juvenile offender is convicted of violating such conditions.

(d) The following provisions apply to the court's determination of whether to order reparation or restitution pursuant to subsection (a)(7):

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

(2) restitution may include, but shall not be limited to, the amount of damage or loss caused by the juvenile's offense. Restitution may be made by payment of an amount fixed by the court or by working for the parties sustaining loss in the manner ordered by the court. An order of monetary restitution shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile offender.

(e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

(1) The amount of the fine may not exceed \$1,000 for each offense. The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to pay. Payment of a fine may be required in a lump sum or installments;

(2) in determining whether to impose a fine and the amount to be imposed, the court shall consider that imposition of a fine is most appropriate in cases where the juvenile has derived pecuniary gain from the offense and that imposition of a restitution order is preferable to imposition of a fine; and

(3) any fine imposed by court shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile.

(f) Before the court sentences a juvenile offender pursuant to sub-

section (a), the court shall administer a risk assessment tool, as described in K.S.A. ~~2015~~ 2016 Supp. 38-2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile and use the results of that assessment to inform orders made pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369 and ~~section 1~~ 38-2391, and amendments thereto.

(g) If the court commits the juvenile to detention pursuant to subsection (a)(11), the following provisions shall apply:

(1) The court shall only order commitment to detention upon violation of sentencing conditions where all other alternatives have been exhausted.

(2) In order to commit a juvenile to detention upon violation of sentencing conditions, the court shall find that the juvenile poses a significant risk of harm to another or damage to property, is charged with a new felony offense, or violates conditional release.

(3) The court shall not order commitment to detention upon adjudication as a juvenile offender pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2356, and amendments thereto, for solely technical violations of probation, contempt, a violation of a valid court order, to protect from self-harm or due to any state or county failure to find adequate alternatives.

(4) Cumulative detention use shall be limited to a maximum of 45 days over the course of a juvenile offender's case pursuant to ~~section 1~~ K.S.A. 2016 Supp. 38-2391, and amendments thereto. The court shall review any detention commitment every seven days and may shorten the initial commitment or extend the commitment. In no case, however, may the term of detention or any extension thereof exceed the cumulative detention limit of 45 days or the overall case length limit.

(5) A juvenile over 18 years of age and less than 23 years of age at sentencing shall be committed to a county jail, in lieu of a juvenile detention center, under the same time restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.

(h) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

(i) In addition to the requirements of K.S.A. ~~2015~~ 2016 Supp. 38-2373, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the secretary of corrections within 30 days of final disposition.

(j) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense ~~that~~ which, if committed by an adult would constitute the commission of: (1) Aggravated human trafficking, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in K.S.A.

~~2015~~ 2016 Supp. 21-5503(a)(3), and amendments thereto; (3) aggravated indecent liberties with a child, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5506(b)(3), and amendments thereto; (4) aggravated criminal sodomy, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5504(b)(1) or (b)(2), and amendments thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age; (6) sexual exploitation of a child, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than 14 years of age; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in paragraphs (1) through (6); the court shall issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(k) The court may order a short-term alternative placement of a juvenile pursuant to subsection (a)(3) in an emergency shelter, therapeutic foster home or community integration program if:

(1) Such juvenile has been adjudicated to be a juvenile offender for an offense ~~that~~ *which*, if committed by an adult would constitute the commission of:

(A) Aggravated human trafficking, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5503, and amendments thereto;

(C) commercial sexual exploitation of a child, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age;

(D) sexual exploitation of a child, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than 14 years of age;

(E) aggravated indecent liberties with a child, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5506, and amendments thereto, if the victim is less than 14 years of age; or

(F) an attempt, conspiracy or criminal solicitation, as defined in K.S.A.-~~2015~~ 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in paragraphs (1) through (4); and

- (2) (A) the victim resides in the same home as the juvenile offender;
- (B) a community supervision officer in consultation with the department for children and families determines that an adequate safety plan, which shall include the physical and psychological well-being of the victim, cannot be developed to keep the juvenile in the same home; and
- (C) there are no relevant child in need of care issues that would permit a case to be filed under the Kansas code for care of children.

The presumptive term of commitment shall not extend beyond ~~three months~~ and the overall case length limit but may be modified pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2367 and ~~section 8~~ 38-2397, and amendments thereto. If a child is placed outside the child's home at the dispositional hearing pursuant to this subsection and no reintegration plan is made a part of the record of the hearing, a written reintegration plan shall be prepared pursuant to ~~section 8~~ K.S.A. 2016 Supp. 38-2397, and amendments thereto, and submitted to the court within 15 days of the initial order of the court.

(l) The sentencing hearing shall be open to the public as provided in K.S.A. ~~2015~~ 2016 Supp. 38-2353, and amendments thereto.

(m) The overall case length limit shall be calculated by the court and entered into the written record when one or more of the sentencing options under this section are imposed. The period fixed by the court pursuant to subsection (a) shall not extend beyond the overall case length limit.

Sec. 7. K.S.A. 2015 Supp. 38-2368, as amended by section 45 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2368. If it is alleged that a juvenile offender has violated a condition of probation or of a court-ordered placement, the county or district attorney, the current custodian of the juvenile offender, or the victim of the offense committed by the offender may file a report with the assigned community supervision officer of the juvenile offender. If, upon review by the assigned community supervision officer of the juvenile offender, it is determined that the violation is eligible under ~~section 2~~ K.S.A. 2016 Supp. 38-2392, and amendments thereto, for review by the court, the assigned community supervision officer may file a report with the court describing the alleged violation. The court shall provide copies of the report to the parties to the proceeding. The court, upon the court's own motion or the motion of the secretary of corrections or any party, shall set the matter for hearing and may issue a warrant pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2342, and amendments thereto, if there is probable cause to believe that the juvenile poses a significant risk of physical harm to another or damage to property. Upon receipt of the motion, the court shall fix a time and place for hearing and provide notice to the movant and to the current custodian of the juvenile offender and to each party to the proceeding. If the court finds by a preponderance of the evidence



that the juvenile offender *has absconded from supervision*, violated a condition of probation or placement or committed a technical violation for a third or subsequent time, the court may, subject to the overall case length limit, extend or modify the terms of probation or placement or enter another sentence pursuant to K.S.A.—~~2015~~ 2016 Supp. 38-2361, and amendments thereto, except that a child support order which has been registered under K.S.A.—~~2015~~ 2016 Supp. 38-2321, and amendments thereto, may only be modified pursuant to K.S.A.—~~2015~~ 2016 Supp. 38-2321, and amendments thereto.

Sec. 8. K.S.A. 2015 Supp. 38-2369, as amended by section 46 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2369. (a) Except as provided in subsection (e) *and* K.S.A. 2016 Supp. 38-2361(a)(13), for the purpose of committing juvenile offenders to a juvenile correctional facility, upon a finding by the judge entered into the written order that the juvenile poses a significant risk of harm to another or damage to property, the following placements shall be applied by the judge in the cases specified in this subsection. If used, the court shall establish a specific term of commitment as specified in this subsection. The term of commitment established by the court shall not exceed the overall case length limit. Before a juvenile offender is committed to a juvenile correctional facility pursuant to this section, the court shall administer a risk assessment tool, as described in K.S.A. ~~2015~~ 2016 Supp. 38-2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile.

(1) *Violent Offenders*. (A) The violent offender I is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute an off-grid felony. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 60 months and up to a maximum term of the offender reaching the age of 22 years, six months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of the offender reaching the age of 23 years.

(B) The violent offender II is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 24 months and up to a maximum term of the offender reaching the age of 22 years, six months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of the offender reaching the age of 23 years.

(2) *Serious Offenders*. (A) The serious offender I is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 4, person felony.

Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 18 months and up to a maximum term of 36 months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 24 months.

(B) The serious offender II is defined as an offender adjudicated as a juvenile offender for an offense:

(i) Committed prior to July 1, 2012, which, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony; or

(ii) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony or a nondrug severity level 5 or 6 person felony.

Offenders in this category may be committed to a juvenile correctional facility for a minimum term of nine months and up to a maximum term of 18 months.

~~(C) The serious offender III is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 7, person felony with one prior felony adjudication. Offenders in this category may only be committed to a juvenile correctional facility if they are assessed as high-risk on a risk and needs assessment. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months and up to a maximum term of 12 months.~~

~~(D) The serious offender IV III is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 7, 8, 9 or 10 person felony with one prior felony adjudication. Offenders in this category may only be committed to a juvenile correctional facility if such offenders are assessed as high-risk on a risk and needs assessment. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months and up to a maximum term of 12 months.~~

(3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is defined as an offender adjudicated as a juvenile offender for an offense:

(i) Which, if committed by an adult, would constitute one present nonperson felony adjudication and two prior felony adjudications;

(ii) committed prior to July 1, 2012, which, if committed by an adult prior to July 1, 2012, would constitute one present drug severity level 3 felony adjudication and two prior felony adjudications; or

(iii) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute one present drug severity level 4 felony adjudication and two prior felony adjudications.

Offenders in this category may only be committed to a juvenile correctional facility if such offenders are assessed as high-risk on a risk and needs assessment. Offenders in this category may be committed to a

juvenile correctional facility for a minimum term of six months and up to a maximum term of 12 months.

(b) *Conditional Release.* If the court elects, a period of conditional release may also be ordered pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2361, and amendments thereto. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. The presumption upon release shall be a return to the juvenile's home, unless the case plan developed pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2373, and amendments thereto, recommends a different reentry plan.

(1) Upon finding the juvenile violated a requirement or requirements of conditional release, the court may enter one or more of the following orders:

(A) Recommend additional conditions be added to those of the existing conditional release.

(B) Order the offender to serve a period of detention pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2361(g), and amendments thereto.

(C) Revoke or restrict the juvenile's driving privileges as described in K.S.A. ~~2015~~ 2016 Supp. 38-2361(c), and amendments thereto.

(2) Discharge the offender from the custody of the secretary of corrections, release the secretary of corrections from further responsibilities in the case and enter any other appropriate orders.

(c) As used in this section; "adjudication" includes out-of-state juvenile adjudications. An out-of-state offense, which if committed by an adult would constitute the commission of a felony or misdemeanor, shall be classified as either a felony or a misdemeanor according to the adjudicating jurisdiction. If an offense which if committed by an adult would constitute the commission of a felony is a felony in another state, it will be deemed a felony in Kansas. The state of Kansas shall classify the offense, which if committed by an adult would constitute the commission of a felony or misdemeanor, as person or nonperson. In designating such offense as person or nonperson, reference to comparable offenses shall be made. If the state of Kansas does not have a comparable offense, the out-of-state adjudication shall be classified as a nonperson offense.

(d) The secretary of corrections shall work with the community to provide on-going support and incentives for the development of additional evidence-based community practices and programs to ensure that the juvenile correctional facility is not frequently utilized.

(e) There shall be a rebuttable presumption that all offenders in the chronic offender category and offenders at least 10 years of age but less than 14 years of age in the serious offender II; ~~or III or IV~~ category, shall be placed in the custody of the secretary for placement in a youth residential facility in lieu of placement in the juvenile correctional facility. This presumption may be rebutted by a finding on the record that the juvenile offender poses a significant risk of physical harm to another.

Sec. 9. K.S.A. 2015 Supp. 38-2375, as amended by section 51 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2375. If it is alleged that a juvenile offender who has been conditionally released from a juvenile correctional facility has failed to obey the specified conditions of release for the third or subsequent time *or has absconded from supervision*, the officer assigned to supervise compliance with the conditions of release or, upon referral from such officer, the county or district attorney may file a report with the committing court or the court of the county in which the juvenile offender resides describing the alleged violation and the juvenile's history of violations. The court shall provide copies of the report to the parties to the proceedings. The court, upon the court's own motion or the county or district attorney, shall set the matter for hearing. The movant shall provide notice of the motion and hearing to each party to the proceeding and the current custodian and placement of the juvenile offender. If the court finds that a condition of release has been violated, the court may modify or impose additional conditions of release that the court considers appropriate pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369, and amendments thereto.

Sec. 10. K.S.A. 2016 Supp. 38-2391 is hereby amended to read as follows: 38-2391. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2016 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2016 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2016 Supp. 38-2368, and amendments thereto, the court may impose one or more of the sentencing alternatives under K.S.A. 2016 Supp. 38-2361, and amendments thereto, for a period of time pursuant to this section and K.S.A. 2016 Supp. 38-2369, and amendments thereto. The period of time ordered by the court shall not exceed the overall case length limit.

(b) Except as provided in subsection (c), the overall case length limit shall be calculated based on the adjudicated offense and the results of a risk and needs assessment, as follows:

(1) Offenders adjudicated for a misdemeanor may remain under the jurisdiction of the court for up to 12 months;

(2) low-risk and moderate-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 15 months; and

(3) high-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 18 months.

(c) There shall be no overall case length limit for a juvenile adjudicated for a felony ~~that~~ *which*, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(d) When a juvenile is adjudicated for multiple counts, the maximum overall case length shall be calculated based on the most severe adjudicated count or any other adjudicated count at the court's discretion. The court shall not run multiple adjudicated counts consecutively.

(e) When the juvenile is adjudicated for multiple cases simultaneously, the court shall run those cases concurrently.

(f) Upon expiration of the overall case length limit as defined in subsection (b), the court's jurisdiction terminates and shall not be extended.

(g) (1) For the purposes of placing juvenile offenders on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, the court shall establish a specific term of probation as specified in this subsection based on the most serious adjudicated count in combination with the results of a risk and needs assessment, as follows, except that the term of probation shall not exceed the overall case length limit:

(A) Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony may be placed on probation for a term up to six months;

(B) high-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony may be placed on probation for a term up to nine months;

(C) high-risk offenders adjudicated for a felony may be placed on probation for a term up to 12 months.

(2) The court may extend the term of probation if a juvenile needs time to complete an evidence-based program as determined to be necessary based on the results of a validated risk and needs assessment. The court may also extend the term of probation for good cause shown for one month for low-risk offenders, three months for moderate-risk offenders and six months for high-risk offenders. Prior to extension of the initial probationary term, the court shall find and enter into the written record the criteria permitting extension of probation. Extensions of probation shall only be granted incrementally and shall not exceed the overall case length limit. When the court extends the term of probation for a juvenile offender, the court services officer or community correctional services officer responsible for monitoring such juvenile offender shall record the reason given for extending probation. Court services officers shall report such records to the office of judicial administration, and community correctional services officers shall report such records to the department of corrections. The office of judicial administration and the department of corrections shall report such recorded data to the Kansas juvenile justice oversight committee on a quarterly basis.

(3) The probation term limits do not apply to those offenders adjudicated for *an offense which, if committed by an adult, would constitute an off-grid crime, rape as defined in K.S.A. 2016 Supp. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as defined in K.S.A. 2016 Supp. 21-5504(b)(3), and amendments thereto, or murder in the second degree as defined in K.S.A. 2016 Supp. 21-5403, and amendments thereto.* Such offenders may be placed on probation for a term consistent with the overall case length limit.

(4) *The probation term limits and overall case length limits provided*

*in this section shall be tolled during any time that the offender has absconded from supervision while on probation.*

(h) For the purpose of placing juvenile offenders in detention pursuant to K.S.A. 2016 Supp. 38-2361 and 38-2369, and amendments thereto, the court shall establish a specific term of detention. The term of detention shall not exceed the overall case length limit or the cumulative detention limit. Cumulative detention use shall be limited to a maximum of 45 days over the course of the juvenile offender's case, except that there shall be no limit on cumulative detention for juvenile offenders adjudicated for a felony ~~that~~ *which*, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(i) *The provisions of this section shall apply upon disposition or 15 days after adjudication, whichever is sooner.*

~~(j)~~(j) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

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

Sec. 11. K.S.A. 2016 Supp. 38-2392 is hereby amended to read as follows: 38-2392. (a) The department of corrections shall, in consultation with the supreme court, adopt rules and regulations by January 1, 2017, for a statewide system of structured community-based graduated responses for technical violations of probation, violations of conditional release and violations of a condition of sentence by juveniles. Such graduated responses shall be utilized by community supervision officers to provide a continuum of community-based responses. These responses shall include sanctions that are swift and certain to address violations based on the severity of the violation as well as incentives that encourage positive behaviors. Such responses shall take into account the juvenile's risks and needs.

(b) When a juvenile is placed on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, community supervision officers shall utilize graduated responses, targeted to the juvenile's risks and needs based on the results of a risk and needs assessment to address technical violations. A technical violation shall only be considered by the court for revocation if: (1) It is a third or subsequent technical violation; (2) prior failed responses are documented in the juvenile's case plan; and (3) the community supervision officer has determined and documented that graduated responses to the violation will not suffice. Unless a juvenile poses a significant risk of physical harm to another or damage to property, community supervision officers shall issue a summons rather than request a warrant on a third or subsequent technical violation subject to review by the court. *Absconding from supervision shall not be considered a technical violation of probation and, after reasonable efforts to locate a juvenile that has absconded are unsuccessful, the court may issue a warrant*

*for the juvenile pursuant to K.S.A. 2016 Supp. 38-2342, and amendments thereto.*

(c) When a juvenile is placed on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, the community supervision officer responsible for oversight of the juvenile shall develop a case plan in consultation with the juvenile and the juvenile's family. The department for children and families and local board of education may participate in the development of the case plan when appropriate.

(1) Such case plan shall incorporate the results of the risk and needs assessment, referrals to programs, documentation on violations and graduated responses and shall clearly define the role of each person or agency working with the juvenile.

(2) If the juvenile is later committed to the custody of the secretary, the case plan shall be shared with the juvenile correctional facility.

(d) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

Sec. 12. K.S.A. 2016 Supp. 38-2398 is hereby amended to read as follows: 38-2398. (a) For purposes of determining release of a juvenile from probation, the supreme court, in consultation with the department of corrections, shall establish rules for a system of earned discharge for juvenile probationers to be applied by all community supervision officers. A probationer shall be awarded earned discharge credits while on probation for each full calendar month of compliance with terms of supervised probation pursuant to the rules developed by the supreme court.

(b) *The state of Kansas, the secretary of corrections, the secretary's agents or employees, the office of judicial administration and court services officers shall not be liable for damages caused by any negligent or wrongful act or omission in making the earned discharge credit calculations authorized by this section.*

Sec. 13. K.S.A. 2016 Supp. 75-52,161 is hereby amended to read as follows: 75-52,161. (a) There is hereby established the Kansas juvenile justice oversight committee for the purpose of overseeing the implementation of reform measures intended to improve the state's juvenile justice system.

(b) The Kansas juvenile justice oversight committee shall be composed of ~~19~~ 21 members including the following individuals:

(1) The governor or the governor's designee;

(2) one member of the house of representatives appointed by the speaker of the house of representatives;

(3) one member of the house of representatives appointed by the minority leader of the house of representatives;

(4) one member of the senate appointed by the president of the senate;

- (5) one member of the senate appointed by the minority leader of the senate;
- (6) the secretary of corrections or the secretary's designee;
- (7) the secretary for children and families or the secretary's designee;
- (8) the commissioner of education or the commissioner's designee;
- (9) the deputy secretary of juvenile services at the department of corrections or the deputy's designee;
- (10) the director of community-based services at the department of corrections, or the director's designee;
- (11) two district court judges appointed by the chief justice of the supreme court;
- (12) one chief court services officer appointed by the chief justice of the supreme court;
- (13) one member of the office of judicial administration appointed by the chief justice of the supreme court;
- (14) one juvenile defense attorney appointed by the chief justice of the supreme court;
- (15) one juvenile crime victim advocate appointed by the governor;
- (16) one member from a local law enforcement agency appointed by the attorney general;
- (17) one attorney from a prosecuting attorney's office appointed by the attorney general; ~~and~~
- (18) one member from a community corrections agency appointed by the governor;
- (19) *one youth member of the Kansas advisory group on juvenile justice and delinquency prevention appointed by the chair of the Kansas advisory group on juvenile justice and delinquency prevention; and*
- (20) *one director of a juvenile detention facility appointed by the attorney general.*

(c) The committee shall be appointed by September 1, 2016, and shall meet within 60 days after appointment and at least quarterly thereafter, upon notice by the chair. The committee shall select a chairperson and vice-chairperson, and ~~10~~ 11 members shall be considered a quorum.

(d) The committee shall perform the following duties:

- (1) Guide and evaluate the implementation of the changes in law relating to juvenile justice reform;
- (2) define performance measures and recidivism;
- (3) approve a plan developed by court services and the department of corrections instituting a uniform process for collecting and reviewing performance measures and recidivism, costs and outcomes of programs;
- (4) consider utilizing the Kansas criminal justice information system for data collection and analyses;
- (5) ensure system integration and accountability;
- (6) monitor the fidelity of implementation efforts to programs and training efforts;



(7) calculate any state expenditures that have been avoided by reductions in the number of youth placed in out-of-home placements to recommend to the governor and the legislature reinvestment of funds into:

(A) Evidence-based practices and programs in the community pursuant to K.S.A. 2016 Supp. 38-2302, and amendments thereto, for use by intake and assessment services, immediate intervention, probation and conditional release;

(B) training on evidence-based practices for juvenile justice system staff, including, but not limited to, training in cognitive behavioral therapies, family-centered therapies, substance abuse, sex offender therapy and other services that address a juvenile's risks and needs; and

(C) monitor the plan from the department of corrections for the prioritization of funds pursuant to K.S.A. 2016 Supp. 75-52,164(d), and amendments thereto;

(8) continue to review any additional topics relating to the continued improvement of the juvenile justice system, including:

(A) The confidentiality of juvenile records;

(B) the reduction of the financial burden placed on families involved in the juvenile justice system;

(C) juvenile due process rights, including, but not limited to, the development of rights to a speedy trial and preliminary hearings;

(D) the improvement of conditions of confinement for juveniles;

(E) the removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is no court finding of parental abuse or neglect; and

(F) the requirement for youth residential facilities to maintain sight and sound separation between children in need of care that have an open juvenile offender case and children in need of care that do not have an open juvenile offender case;

(9) adhere to the goals of the juvenile justice code as provided in K.S.A. 2016 Supp. 38-2301, and amendments thereto;

(10) analyze and investigate gaps in the juvenile justice system and explore alternatives to out-of-home placement of juvenile offenders in youth residential facilities; ~~and~~

(11) identify evidence-based training models, needs and resources and make appropriate recommendations;

(12) *study and create a plan to address the disparate treatment and availability of resources for juveniles with mental health needs in the juvenile justice system; and*

(13) *review portions of juvenile justice reform that require the department of corrections and the office of judicial administration to cooperate and make recommendations when there is not consensus between the two agencies.*

(e) The committee shall issue an annual report to the governor, the

president of the senate, the speaker of the house of representatives and the chief justice of the supreme court on or before November 30<sup>th</sup> each year starting in 2017. Such report shall include:

(1) An assessment of the progress made in implementation of juvenile justice reform efforts;

(2) a summary of the committee's efforts in fulfilling its duties as set forth in this section;

(3) an analysis of the recidivism data obtained by the committee pursuant to this section;

(4) a summary of the averted costs calculated by the committee pursuant to this section and a recommendation for any reinvestment of the averted costs to fund services or programs to expand Kansas' continuum of alternatives for juveniles who would otherwise be placed in out-of-home placements;

(5) an analysis of detention risk-assessment data to determine if any disparate impacts resulted at any stage of the juvenile justice system based on race, sex, national origin or economic status;

(6) recommendations for continued improvements to the juvenile justice system;

(7) data pertaining to the completion of training on evidence-based practices in juvenile justice, including, but not limited to, the number of judges, district and county attorneys and appointed defense attorneys, that participated in training; and

(8) data received from the office of judicial administration and the department of corrections, pursuant to K.S.A. 2016 Supp. 38-2391, and amendments thereto, pertaining to extensions of probation for juvenile offenders and an analysis of such data to identify how probation extensions are being used and conclusions regarding the effectiveness of such extensions.

(f) After initial appointment, members appointed to this committee by the governor, the president of the senate, the speaker of the house of representatives or the chief justice of the supreme court pursuant to subsection (b), shall serve for a term of two years and shall be eligible for reappointment to such position. All members appointed to the committee shall serve until a successor has been duly appointed.

(g) The staff of the Kansas department of corrections shall provide such assistance as may be requested by the committee. To facilitate the organization of the meetings of the committee, the Kansas department of corrections shall provide administrative assistance.

Sec. 14. K.S.A. 2016 Supp. 75-52,162 is hereby amended to read as follows: 75-52,162. (a) The department of corrections and the Kansas juvenile justice oversight committee shall explore methods of exchanging confidential data between all parts of the juvenile justice system. Such data exchange shall be limited based on the needs of the user accessing

the data. Such method of exchanging data shall take into consideration sharing data that is necessary for continuity of treatment and correctional programs, including, but not limited to, health care requirements, mental health care needs and history, substance abuse treatment and history, recommendations for emergency placement options and any other information to assist in providing proper care to the juvenile. The department of corrections is authorized to use grant funds, allocated state funds or any other accessible funding necessary to create such data exchange system. All state and local programs involved in the care of juveniles involved in the juvenile justice system or the child in need of care system shall cooperate in the development and utilization of such system.

(b) *The department of corrections shall establish and maintain a state-wide searchable database that contains information regarding juveniles who participate in an immediate intervention program. County and district attorneys, judges, community supervision officers and juvenile intake and assessment workers shall have access to the database and shall submit necessary data to such database. The department of corrections shall, in consultation with the office of judicial administration, adopt rules and regulations to carry out the provisions of this subsection.*

Sec. 15. K.S.A. 2016 Supp. 75-52,164 is hereby amended to read as follows: 75-52,164. (a) There is hereby established in the state treasury the ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund*, which shall be administered by the department of corrections. All expenditures from the ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund* shall be for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families by community supervision offices, including, but not limited to, juvenile intake and assessment, court services and community corrections. All expenditures from the ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund* shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of corrections or the secretary's designee.

(b) ~~At least annually, on or before June 30 throughout the year,~~ the secretary of corrections shall determine and certify to the director of accounts and reports the amount in each account of the state general fund of a state agency that has been determined by the secretary to be actual or projected cost savings as a result of cost avoidance resulting from decreased reliance on incarceration in the juvenile correctional facility and placement in youth residential centers. The baseline shall be calculated on the cost of incarceration and placement in fiscal year 2015.

(c) ~~Annually, on July 1 or as soon thereafter as moneys are available~~ Upon receipt of a certification pursuant to subsection (b), the director of

accounts and reports shall transfer the amount certified pursuant to subsection (b) from each account of the state general fund of a state agency that has been determined by the secretary of corrections to be actual or projected cost savings to the ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund*.

(d) Prioritization of ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund* moneys will be given to regions that demonstrate a high rate of out-of-home placement of juvenile offenders per capita that have few existing community-based alternatives.

(e) During fiscal years 2017 and 2018, the secretary of corrections shall transfer an amount not to exceed \$8,000,000 from appropriated department of corrections moneys from the state general fund or any available special revenue fund or funds that are budgeted for the purposes of facilitating the development and implementation of new community placements in conjunction with the reduction in out-of-home placements.

(f) The ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund* and any other moneys transferred pursuant to this section shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the funds and the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this section.

Sec. 16. K.S.A. 2016 Supp. 75-6704 is hereby amended to read as follows: 75-6704. (a) The director of the budget shall continuously monitor the status of the state general fund with regard to estimated and actual revenues and approved and actual expenditures and demand transfers. Periodically, the director of the budget shall estimate the amount of the unencumbered ending balance of moneys in the state general fund for the current fiscal year and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund for the current fiscal year. If the amount of such unencumbered ending balance in the state general fund is less than \$100,000,000, the director of the budget shall certify to the governor the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund, after adjusting the estimates of the amounts of such demand transfers with regard to new estimates of revenues to the state general fund, where appropriate. 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~~ *evidence-based programs appropriation of the state general 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 system pursuant to K.S.A. 74-4939, and amendments thereto, or any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto. The provisions of such executive order shall be effective for all state agencies of the executive, legislative and judicial branches of state government.

(d) If the governor issues an executive order under this section, the director of accounts and reports shall not issue any warrant for the payment of moneys in the state general fund or make any demand transfer of moneys in the state general fund for any state agency unless such warrant or demand transfer is in accordance with such executive order and such warrant or demand transfer does not exceed the amount of money permitted to be expended or transferred from the state general fund.

(e) Nothing in this section shall be construed to: (1) Require the governor to issue an executive order under this section upon receipt of

any such certification by the director of the budget; or (2) restrict the number of times that the director of the budget may make a certification under this section or that the governor may issue an executive order under this section.

Sec. 17. K.S.A. 2015 Supp. 38-2304, as amended by section 30 of chapter 46 of the 2016 Session Laws of Kansas, 38-2342, as amended by section 36 of chapter 46 of the 2016 Session Laws of Kansas, 38-2361, as amended by section 42 of chapter 46 of the 2016 Session Laws of Kansas, 38-2368, as amended by section 45 of chapter 46 of the 2016 Session Laws of Kansas, 38-2369, as amended by section 46 of chapter 46 of the 2016 Session Laws of Kansas and 38-2375, as amended by section 51 of chapter 46 of the 2016 Session Laws of Kansas and K.S.A. 2016 Supp. 38-2330, 38-2346, 38-2391, 38-2392, 38-2398, 75-52,161, 75-52,162, 75-52,164 and 75-6704 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

Approved June 9, 2017.

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## CHAPTER 91

### SENATE BILL No. 201

AN ACT concerning the Kansas consumer protection act; relating to the definition of protected consumer; amending K.S.A. 2016 Supp. 50-676 and repealing the existing section.

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

Section 1. K.S.A. 2016 Supp. 50-676 is hereby amended to read as follows: 50-676. As used in K.S.A. 50-676 through 50-679, and amendments thereto:

- (a) “Elder person” means a person who is 60 years of age or older.
- (b) “Disabled person” means a person who has physical or mental impairment, or both, which substantially limits one or more of such person’s major life activities.
- (c) “Immediate family member” means parent, child, stepchild or spouse.
- (d) “Major life activities” includes functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (e) “Member of the military” means a member of the armed forces or national guard on active duty or a member of an active reserve unit in the armed forces or national guard.
- (f) “Physical or mental impairment” means the following:
  - (1) Any physiological disorder or condition, cosmetic disfigurement

or anatomical loss substantially affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine; or

(2) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability and emotional illness.

(g) “Protected consumer” means:

- (1) An elder person;
  - (2) a disabled person;
  - (3) a veteran;
  - (4) the surviving spouse of a veteran; ~~and~~
  - (5) *a member of the military; and*
  - (6) an immediate family member of a member of the military.
- (h) “Substantially limits” means:

(1) Unable to perform a major life activity that the average person in the general population can perform; or

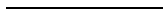
(2) significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform that same major life activity. Minor temporary ailments or injuries shall not be considered physical or mental impairments which substantially limit a person’s major life activities. Minor temporary ailments include, but are not limited to, colds, influenza or sprains or minor injuries.

(i) “Veteran” means a person who has served in the armed forces of the United States of America and separated from the armed forces under honorable conditions.

Sec. 2. K.S.A. 2016 Supp. 50-676 is hereby repealed.

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

Approved June 9, 2017.



## CHAPTER 92

## HOUSE BILL No. 2092

AN ACT concerning crimes, punishment and criminal procedure; relating to sentencing; mandatory minimum terms of imprisonment; persons with intellectual disabilities convicted of capital murder; criminal history classification of juvenile adjudications; warrants, disclosure of affidavits or sworn testimony; sufficiency of grand jury petitions; right to appeal; revocation of nonprison sanctions; amending K.S.A. 2016 Supp. 21-6620, 21-6622, 21-6623, 21-6627, 21-6810, 22-2302, 22-3001, 22-3716 and 25-3601 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 21-6620 is hereby amended to read as follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and K.S.A. 2016 Supp. 21-6618 and 21-6622, and amendments thereto, if a defendant is convicted of the crime of capital murder and a sentence of death is not imposed pursuant to subsection (c) of K.S.A. 2016 Supp. 21-6617(e), and amendments thereto, or requested pursuant to subsection (a) or (b) of K.S.A. 2016 Supp. 21-6617(a) or (b), and amendments thereto, the defendant shall be sentenced to life without the possibility of parole.

(2) (A) Except as provided in subsection (a)(2)(B), a defendant convicted of attempt to commit the crime of capital murder shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(B) The provisions of subsection (a)(2)(A) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, ~~is would be~~ subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range ~~exceeds would exceed~~ 300 months *if the sentence established for a severity level 1 crime was imposed*. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range. *The defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.*

(b) The provisions of this subsection shall apply only to the crime of murder in the first degree as described in subsection (a)(2) of K.S.A. 2016 Supp. 21-5402(a)(2), and amendments thereto, committed on or after July 1, 2014.

(1) Except as provided in subsection (b)(2), a defendant convicted of



murder in the first degree as described in ~~subsection (a)(2)~~ of K.S.A. 2016 Supp. 21-5402(a)(2), and amendments thereto, shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(2) The provisions of subsection (b)(1) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, ~~is~~ *would be* subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range ~~exceeds~~ *would exceed* 300 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range. *The defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.*

(c) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed on or after July 1, 2014.

(1) (A) Except as provided in subsection (c)(1)(B), a defendant convicted of murder in the first degree based upon the finding of premeditated murder shall be sentenced pursuant to K.S.A. 2016 Supp. 21-6623, and amendments thereto, unless the sentencing judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose the sentence specified in subsection (c)(2).

(B) The provisions of subsection (c)(1)(A) requiring the court to impose the mandatory minimum term of imprisonment required by K.S.A. 2016 Supp. 21-6623, and amendments thereto, shall not apply if the court finds the defendant, because of the defendant's criminal history classification, ~~is~~ *would be* subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range ~~exceeds~~ *would exceed* 600 months if the sentence established for a severity level 1 crime was imposed. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range. *The defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.*

(2) (A) If the sentencing judge does not impose the mandatory minimum term of imprisonment required by K.S.A. 2016 Supp. 21-6623, and

amendments thereto, the judge shall state on the record at the time of sentencing the substantial and compelling reasons therefor, and, except as provided in subsection (c)(2)(B), the defendant shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(B) The provisions of subsection (c)(2)(A) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, ~~is would be~~ subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range ~~exceeds would exceed~~ 300 months *if the sentence established for a severity level 1 crime was imposed*. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range. *The defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.*

(d) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed on or after September 6, 2013, *but prior to July 1, 2014*.

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

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

at the proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the proceeding has been waived, such proceeding shall be conducted by the court.

(3) In the proceeding, evidence may be presented concerning any matter relating to any of the aggravating circumstances enumerated in K.S.A. 2016 Supp. 21-6624, and amendments thereto. Only such evidence of aggravating circumstances as the prosecuting attorney has made known to the defendant prior to the proceeding shall be admissible and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the time of the proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(4) At the conclusion of the evidentiary portion of the proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations. If the prosecuting attorney relies on ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-6624(a), and amendments thereto, as an aggravating circumstance, and the court finds that one or more of the defendant's prior convictions satisfy such subsection, the jury shall be instructed that a certified journal entry of a prior conviction is presumed to prove the existence of such prior conviction or convictions beyond a reasonable doubt.

(5) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 2016 Supp. 21-6624, and amendments thereto, exist, the jury shall designate, in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found. If, after a reasonable time for deliberation, the jury is unable to reach a unanimous sentencing decision, the court shall dismiss the jury and the defendant shall be sentenced as provided by law. In nonjury cases, the court shall designate, in writing, the specific circumstance or circumstances which the court found beyond a reasonable doubt.

(6) If one or more of the aggravating circumstances enumerated in K.S.A. 2016 Supp. 21-6624, and amendments thereto, are found to exist beyond a reasonable doubt pursuant to this subsection, the defendant shall be sentenced pursuant to K.S.A. 2016 Supp. 21-6623, and amendments thereto, unless the sentencing judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose the sentence specified in this paragraph. If the sentencing judge does not impose the mandatory minimum term of imprisonment required by K.S.A. 2016 Supp. 21-6623, and amendments thereto, the judge shall state on the record at the time of sentencing the substantial and compelling reasons therefor, and the defendant shall be sentenced to impris-

onment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(e) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed prior to September 6, 2013.

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

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

(3) In the sentencing proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in K.S.A. 2016 Supp. 21-6624, and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, and any mitigating circumstances. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the prosecuting attorney has made known to the defendant prior to the sentencing proceeding shall be admissible and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. Only such evidence of mitigating circumstances subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto, that the defendant has made known to the prosecuting attorney prior to the sentencing proceeding shall be admissible. No testimony by the defendant at the time of sentencing shall be admissible against the defendant at any subsequent

criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(4) At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations. If the prosecuting attorney relies on ~~subsection (a) of K.S.A. 2016 Supp. 21-6624(a)~~, and amendments thereto, or for crimes committed prior to July 1, 2011, ~~subsection (a) of K.S.A. 21-4636(a)~~, prior to its repeal, as an aggravating circumstance, and the court finds that one or more of the defendant's prior convictions satisfy such subsection, the jury shall be instructed that a certified journal entry of a prior conviction is presumed to prove the existence of such prior conviction or convictions beyond a reasonable doubt.

(5) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 2016 Supp. 21-6624, and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further, that the existence of such aggravating circumstances is not outweighed by any mitigating circumstances which are found to exist, the defendant shall be sentenced pursuant to K.S.A. 2016 Supp. 21-6623, and amendments thereto; otherwise, the defendant shall be sentenced as provided by law. The sentencing jury shall designate, in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found. The trier of fact may make the findings required by this subsection for the purpose of determining whether to sentence a defendant pursuant to K.S.A. 2016 Supp. 21-6623, and amendments thereto, notwithstanding contrary findings made by the jury or court pursuant to ~~subsection (e) of K.S.A. 2016 Supp. 21-6617(e)~~, and amendments thereto, for the purpose of determining whether to sentence such defendant to death. If, after a reasonable time for deliberation, the jury is unable to reach a unanimous sentencing decision, the court shall dismiss the jury and the defendant shall be sentenced as provided by law. In nonjury cases, the court shall designate in writing the specific circumstance or circumstances which the court found beyond a reasonable doubt.

(f) The amendments to subsection (e) by chapter 1 of the 2013 Session Laws of Kansas (Special Session):

(1) Establish a procedural rule for sentencing proceedings, and as such shall be construed and applied retroactively to all crimes committed prior to the effective date of this act, except as provided further in this subsection; (2) shall not apply to cases in which the defendant's conviction and sentence were final prior to June 17, 2013, unless the conviction or sentence has been vacated in a collateral proceeding, including, but not limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3) shall apply only in sentencing proceedings otherwise authorized by law.

(g) Notwithstanding the provisions of subsection (h), for all cases on

appeal on or after September 6, 2013, if a sentence imposed under this section, prior to amendment by chapter 1 of the 2013 Session Laws of Kansas (Special Session), or under K.S.A. 21-4635, prior to its repeal, is vacated for any reason other than sufficiency of the evidence as to all aggravating circumstances, resentencing shall be required under this section, as amended by chapter 1 of the 2013 Session Laws of Kansas (Special Session), unless the prosecuting attorney chooses not to pursue such a sentence.

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

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

Sec. 2. K.S.A. 2016 Supp. 21-6622 is hereby amended to read as follows: 21-6622. (a) If, under K.S.A. 2016 Supp. 21-6617, and amendments thereto, the county or district attorney has filed a notice of intent to request a separate sentencing proceeding to determine whether the defendant should be sentenced to death and the defendant is convicted of the crime of capital murder, the defendant's counsel or the warden of the correctional institution or sheriff having custody of the defendant may request a determination by the court of whether the defendant is a person with intellectual disability. If the court determines that there is not sufficient reason to believe that the defendant is a person with intellectual disability, the court shall so find and the defendant shall be sentenced in accordance with K.S.A. 2016 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments thereto. If the court determines that there is sufficient reason to believe that the defendant is a person with intellectual disability, the court shall conduct a hearing to determine whether the defendant is a person with intellectual disability.

(b) If a defendant is convicted of the crime of capital murder and a sentence of death is not imposed, or if a defendant is convicted of the crime of murder in the first degree based upon the finding of premeditated murder, the defendant's counsel or the warden of the correctional institution or sheriff having custody of the defendant may request a determination by the court of whether the defendant is a person with intellectual disability. If the court determines that there is not sufficient reason to believe that the defendant is a person with intellectual disability, the court shall so find and the defendant shall be sentenced in accordance with K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and

amendments thereto. If the court determines that there is sufficient reason to believe that the defendant is a person with intellectual disability, the court shall conduct a hearing to determine whether the defendant is a person with intellectual disability.

(c) At the hearing, the court shall determine whether the defendant is a person with intellectual disability. The court shall order a psychiatric or psychological examination of the defendant. For that purpose, the court shall appoint two licensed physicians or licensed psychologists, or one of each, qualified by training and practice to make such examination, to examine the defendant and report their findings in writing to the judge within 14 days after the order of examination is issued. The defendant shall have the right to present evidence and cross-examine any witnesses at the hearing. No statement made by the defendant in the course of any examination provided for by this section, whether or not the defendant consents to the examination, shall be admitted in evidence against the defendant in any criminal proceeding.

(d) If, at the conclusion of a hearing pursuant to subsection (a), the court determines that the defendant is not a person with intellectual disability, the defendant shall be sentenced in accordance with K.S.A. 2016 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments thereto.

(e) If, at the conclusion of a hearing pursuant to subsection (b), the court determines that the defendant is not a person with intellectual disability, the defendant shall be sentenced in accordance with K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto.

(f) If, at the conclusion of a hearing pursuant to this section, the court determines that the defendant is a person with intellectual disability, the court shall sentence the defendant as otherwise provided by law, and no sentence of death, life without the possibility of parole, or mandatory term of imprisonment *pursuant to K.S.A. 2016 Supp. 21-6623, 21-6624 and 21-6625, and amendments thereto*, shall be imposed hereunder.

(g) Unless otherwise ordered by the court for good cause shown, the provisions of subsection (b) shall not apply if it has been determined, pursuant to a hearing granted under the provisions of subsection (a), that the defendant is not a person with intellectual disability.

(h) As used in this section, “intellectual disability” means having significantly subaverage general intellectual functioning, as defined by K.S.A. 76-12b01, and amendments thereto, to an extent which substantially impairs one’s capacity to appreciate the criminality of one’s conduct or to conform one’s conduct to the requirements of law.

Sec. 3. K.S.A. 2016 Supp. 21-6623 is hereby amended to read as follows: 21-6623. When it is provided by law that a person shall be sentenced pursuant to this section, such person shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension,

modification or reduction of sentence. Except as otherwise provided in *this section*, in addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving 40 years' imprisonment, and such 40 years' imprisonment shall not be reduced by the application of good time credits. For crimes committed on ~~and~~ or after July 1, 1999, a person sentenced pursuant to this section shall not be eligible for parole prior to serving 50 years' imprisonment, and such 50 years' imprisonment shall not be reduced by the application of good time credits. For crimes committed on or after July 1, 2006, a mandatory minimum term of imprisonment of 50 years shall not apply if the court finds that the defendant, because of the defendant's criminal history classification, ~~is would be~~ subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range ~~exceeds would exceed~~ 600 months *if the sentence established for a severity level 1 crime was imposed*. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established *for a severity level 1 crime pursuant to the sentencing range, the defendant shall not be eligible for parole prior to serving such mandatory minimum term of imprisonment, and such mandatory minimum term of imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted*. Upon sentencing a defendant pursuant to this section, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced pursuant to K.S.A. 2016 Supp. 21-6623, and amendments thereto.

Sec. 4. K.S.A. 2016 Supp. 21-6627 is hereby amended to read as follows: 21-6627. (a) (1) Except as provided in subsection (b) or (d), a defendant who is 18 years of age or older and is convicted of the following crimes committed on or after July 1, 2006, shall be sentenced to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 25 years unless the court determines that the defendant should be sentenced as determined in subsection (a)(2):

(A) Aggravated human trafficking, as defined in ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5426(~~b~~), and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in ~~subsection (a)(3) of~~ K.S.A. 2016 Supp. 21-5503(~~a~~)(3), and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in ~~subsection (b)(3) of~~ K.S.A. 2016 Supp. 21-5506(~~b~~)(3), and amendments thereto;

(D) aggravated criminal sodomy, as defined in ~~subsection (b)(1) or (b)(2) of~~ K.S.A. 2016 Supp. 21-5504(~~b~~)(1) or (~~b~~)(2), and amendments thereto;

(E) commercial sexual exploitation of a child, as defined in K.S.A.



2016 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age;

(F) sexual exploitation of a child, as defined in ~~subsection (a)(1) or (a)(4) of~~ K.S.A. 2016 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the child is less than 14 years of age; and

(G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in subsections (a)(1)(A) through (a)(1)(F).

(2) The provision of subsection (a)(1) requiring a mandatory minimum term of imprisonment of not less than 25 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2016 Supp. 21-6626, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, ~~is~~ *would be* subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range ~~exceeds~~ *would exceed* 300 months *if the sentence established for a severity level 1 crime was imposed*. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established for a severity level 1 crime pursuant to the sentencing range.

(b) (1) On and after July 1, 2006, if a defendant who is 18 years of age or older is convicted of a crime listed in subsection (a)(1) and such defendant has previously been convicted of a crime listed in subsection (a)(1), a crime in effect at any time prior to July 1, 2011, which is substantially the same as a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially the same as a crime listed in subsection (a)(1), the court shall sentence the defendant to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 40 years. The provisions of this paragraph shall not apply to a crime committed under K.S.A. 2016 Supp. 21-5507, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 2016 Supp. 21-5507, and amendments thereto.

(2) The provision of subsection (b)(1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2016 Supp. 21-6626, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, ~~is~~ *would be* subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range ~~exceeds~~ *would exceed* 480 months *if the sentence established for a severity level 1 crime was imposed*. In such case, the defendant is required

to serve a mandatory minimum term equal to the sentence established for a severity level I crime pursuant to the sentencing range.

(c) When a person is sentenced pursuant to subsection (a) or (b), such person shall be sentenced to a mandatory minimum term of imprisonment of not less than 25 years, 40 years or be sentenced as determined in subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving such mandatory term of imprisonment, and such imprisonment shall not be reduced by the application of good time credits. *Except as provided in subsection (d), no other sentence shall be permitted.*

(d) (1) On or after July 1, 2006, for a first time conviction of an offense listed in subsection (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence shall be the sentence pursuant to the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and, subject to the provisions of K.S.A. 2016 Supp. 21-6818, and amendments thereto, no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder.

(2) As used in this subsection, “mitigating circumstances” shall include, but are not limited to, the following:

(A) The defendant has no significant history of prior criminal activity;

(B) the crime was committed while the defendant was under the influence of extreme mental or emotional disturbances;

(C) the victim was an accomplice in the crime committed by another person, and the defendant’s participation was relatively minor;

(D) the defendant acted under extreme distress or under the substantial domination of another person;

(E) the capacity of the defendant to appreciate the criminality of the defendant’s conduct or to conform the defendant’s conduct to the requirements of law was substantially impaired; and

(F) the age of the defendant at the time of the crime.

(e) The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, shall not apply to any defendant sentenced pursuant to this section.

Sec. 5. K.S.A. 2016 Supp. 21-6810 is hereby amended to read as follows: 21-6810. (a) Criminal history categories contained in the sen-

tencing guidelines grids are based on the following types of prior convictions: Person felony adult convictions, nonperson felony adult convictions, person felony juvenile adjudications, nonperson felony juvenile adjudications, person misdemeanor adult convictions, nonperson class A misdemeanor adult convictions, person misdemeanor juvenile adjudications, nonperson class A misdemeanor juvenile adjudications, select class B nonperson misdemeanor adult convictions, select class B nonperson misdemeanor juvenile adjudications and convictions and adjudications for violations of municipal ordinances or county resolutions which are comparable to any crime classified under the state law of Kansas as a person misdemeanor, select nonperson class B misdemeanor or nonperson class A misdemeanor. A prior conviction is any conviction, other than another count in the current case, which was brought in the same information or complaint or which was joined for trial with other counts in the current case pursuant to K.S.A. 22-3203, and amendments thereto, which occurred prior to sentencing in the current case, regardless of whether the offense that led to the prior conviction occurred before or after the current offense or the conviction in the current case.

(b) A class B nonperson select misdemeanor is a special classification established for weapons violations. Such classification shall be considered and scored in determining an offender's criminal history classification.

(c) Except as otherwise provided, all convictions, whether sentenced consecutively or concurrently, shall be counted separately in the offender's criminal history.

(d) Except as provided in K.S.A. 2016 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. 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; or*

~~(D)~~(C) *a juvenile adjudication for an offense committed on or after July 1, 1993, which would be an off-grid felony; or a nondrug severity level 1 through 4 felony, 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 5 through 10, ~~a non-grid felony~~, a nongrid felony or any drug felony, if committed by an adult; or

(C) which would be a misdemeanor, if committed by an adult.

(5) *A juvenile adjudication will not be considered and scored if:*

(A) *The current crime of conviction is committed at least five years after the date of the prior adjudication;*

(B) *the offender has no new adjudications or convictions during such five-year period; and*

(C) *the juvenile adjudication is for an offense that would be a nondrug severity level 5 through 10 felony, drug felony, nongrid felony or misdemeanor, if committed by an adult.*

(6) 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)~~(7) 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)~~(8) Prior convictions of a crime defined by a statute ~~which~~ that has since been repealed shall be scored using the classification assigned at the time of such conviction.

~~(8)~~(9) Prior convictions of a crime defined by a statute ~~which~~ that has since been determined unconstitutional by an appellate court shall not be used for criminal history scoring purposes.

~~(9)~~(10) 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~~ *section 1 of*

*chapter 5 of the 2015 Session Laws of Kansas* are procedural in nature and shall be construed and applied retroactively.

Sec. 6. K.S.A. 2016 Supp. 22-2302 is hereby amended to read as follows: 22-2302. (a) If the magistrate finds from the complaint, or from an affidavit or affidavits filed with the complaint or from sworn testimony, that there is probable cause to believe both that a crime has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue, except that a summons instead of a warrant may be issued if: (1) The prosecuting attorney so requests; or (2) in the case of a complaint alleging commission of a misdemeanor, the magistrate determines that a summons should be issued. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue.

(b) For a warrant or summons executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(c) (1) For a warrant or summons executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be open to the public until the warrant or summons has been executed. After the warrant or summons has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. *Upon entry of appearance by an attorney on behalf of the defendant, or indication by the defendant to the court that such defendant will represent the defendant's self*, the clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. The prosecutor shall promptly notify any victim. For the purposes of this subsection, victim shall include any victim of an alleged crime that resulted in the issuance of the arrest warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A. 74-7335, and amendments thereto.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the physical, mental or emotional safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2016 Supp. 21-6419 through 21-6422, and amendments thereto;

(H) reveal the name of any minor;

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the arrest warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.

(B) If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.

(C) Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.

Sec. 7. K.S.A. 2016 Supp. 22-3001 is hereby amended to read as follows: 22-3001. (a) A majority of the district judges in any judicial district may order a grand jury to be summoned in any county in the district when it is determined to be in the public interest.

(b) The district or county attorney in such attorney's county may petition the chief judge or the chief judge's designee in such district court to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation, including any alleged misdemeanor law violation which arises as part of the same criminal conduct or investigation. The attorney general in any judicial district may petition the chief judge or the chief judge's designee in such judicial district to order a grand jury to be summoned in the designated county in the district to consider any alleged felony law violation, including any alleged misdemeanor law violation which arises as part of the same criminal conduct or investigation, if authorized by the district or county attorney in such judicial district or if jurisdiction is otherwise authorized by law. The chief judge or the chief judge's designee in the district court of the county shall then consider the petition and, if it is found that the petition is in proper form, as set forth in this subsection, shall order a grand jury to be summoned within 15 days after receipt of such petition.

(c) (1) A grand jury shall be summoned in any county within 60 days after a petition praying therefor is presented to the district court, bearing the signatures of a number of electors equal to 100 plus 2% of the total number of votes cast for governor in the county in the last preceding election.

(2) The petition, upon its face, shall state the name, address and

phone number of the person filing the petition, the subject matter of the prospective grand jury, a reasonably specific identification of areas to be inquired into and sufficient general allegations to warrant a finding that such inquiry may lead to information which, if true, would warrant a true bill of indictment.

(3) (A) The petition shall be in substantially the following form:

The undersigned qualified electors of the county of \_\_\_\_\_ and state of Kansas hereby request that the district court of \_\_\_\_\_ county, Kansas, within 60 days after the filing of this petition, cause a grand jury to be summoned in the county to investigate alleged violations of law and to perform such other duties as may be authorized by law.

(B) (i) The signatures to the petition need not all be affixed to one paper, but each paper to which signatures are affixed shall have substantially the foregoing form written or printed at the top thereof. Each signer shall add to such signer's signature such signer's place of residence, giving the street and number or rural route number, if any. One of the signers of each paper shall verify upon oath that each signature appearing on the paper is the genuine signature of the person whose name it purports to be and that such signer believes that the statements in the petition are true.

(ii) The petition shall be filed in the office of the clerk of the district court who shall forthwith transmit it to the county election officer, who shall determine whether the persons whose signatures are affixed to the petition are qualified electors of the county. Thereupon, the county election officer shall return the petition to the clerk of the district court, together with such election officer's certificate stating the number of qualified electors of the county whose signatures appear on the petition and the aggregate number of votes cast for all candidates for governor in the county in the last preceding election.

(iii) The judge or judges of the district court of the county shall then consider the petition and, if it is found that the petition is in proper form and bears the signatures of the required number of electors, a grand jury shall be ordered to be summoned. *If a grand jury is not summoned because of a finding that the petition, substantially in the form required by this subsection on its face, is not in proper form, the person who filed the petition and whose name, address and phone number appear on the face of each petition shall have the right to appeal the decision to not summon a grand jury as a final judgment pursuant to K.S.A. 22-3601, and amendments thereto.*

(4) After a grand jury is summoned pursuant to this subsection, but before it begins deliberations, the judge or judges of the district court of the county in which the petition is presented shall provide instructions to the grand jury regarding its conduct and deliberations, which instructions shall include, but not be limited to, the following:

(A) You have been impaneled as a grand jury pursuant to a citizens'



petition filed in this court, signed by (insert number) qualified electors of this county, stating (insert the subject matter described in the petition, including a reasonably specific identification of the areas to be inquired into and the allegations sufficient to warrant a finding that the grand jury's inquiry may lead to information which, if true, would warrant a true bill of indictment). You are charged with making inquiry with regard to this subject matter and determining whether the facts support allegations warranting a true bill of indictment.

(B) The person filing the citizens' petition filed in this court must be the first witness you call for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition.

(C) You may, with the approval of this court, employ special counsel and investigators, and incur such other expense for services and supplies as you and this court deem necessary. Any special counsel or investigator you employ shall be selected by a majority vote of your grand jury. You may make such selection only after hearing testimony from the person who filed the citizens' petition. You may utilize the services of any special counsel or investigator you employ instead of, or in addition to, the services of the prosecuting attorney.

(D) If any witness duly summoned to appear and testify before you fails or refuses to obey, compulsory process will be issued by this court to enforce the witness' attendance.

(E) If any witness appearing before you refuses to testify or to answer any questions asked in the course of the witness' examination, you shall communicate that fact to this court in writing, together with a statement regarding the question the witness refuses to answer. This court will determine and inform you of whether the witness is bound to answer or not. However, no witness appearing before you can be compelled to make any statement which will incriminate such witness.

(F) Any person may file a written request with the prosecuting attorney or with the foreman of the grand jury and request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. Any written request shall include a summary of such person's written testimony.

(G) At the conclusion of your inquiry and determination, you will return either a no bill of indictment or a true bill of indictment.

(d) The grand jury shall consist of 15 members and shall be drawn, qualified and summoned in the same manner as petit jurors for the district court. Twelve members thereof shall constitute a quorum. The judge or judges ordering the grand jury shall direct that a sufficient number of legally qualified persons be summoned for service as grand jurors. In the case of grand juries impaneled pursuant to subsection (c), the judge or judges ordering the grand jury shall allow the person that filed the petition under the provisions of subsection (c)(2), and such person's attorney, to

witness the instructions to the grand jury regarding its conduct and deliberations pursuant to subsection (c)(4).

Sec. 8. K.S.A. 2016 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 ad-

mitted 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 K.S.A. 2016 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 K.S.A. 2016 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

tion was a felony, other than a felony specified in K.S.A. 2016 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 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. 2016 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 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:

(A) 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; or

(B) *the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction was originally granted as the result of a dispositional departure granted by the sentencing court pursuant to K.S.A. 2016 Supp. 21-6815, and amendments thereto.*

(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. 2016 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. 2016 Supp. 21-6824, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.

Sec. 9. K.S.A. 2016 Supp. 25-3601 is hereby amended to read as follows: 25-3601. (a) Subject to the provisions of subsection (d), if a petition is required or authorized as a part of the procedure applicable to the state as a whole or any legislative election district or to any county, city, school district or other municipality, or part thereof, the provisions of K.S.A. 25-3601 et seq., and amendments thereto, shall apply. The sufficiency of each signature and the number thereof on any such petition shall be determined in accordance with the provisions of K.S.A. 25-3601 ~~to through~~ 25-3607, ~~inclusive~~, and amendments thereto, by the county election officer or such other official as designated in the applicable statute. Except as provided herein, a copy of any petition requesting an election in any political or taxing subdivision of the state shall be submitted to the office of the county attorney of the county or district attorney of the district in which all or the greater portion of the political or taxing subdivision is located. If a county counselor has been appointed in the county or district, the petition shall be submitted to the county counselor. The petition shall be submitted either by hand-delivery or by certified mail, return receipt requested. Such petition shall contain the question

to be submitted at the election. Within five business days following submission of the petition, the county counselor, county attorney or district attorney shall furnish a written advisory opinion as to the legality of the form of the question contained on the petition. There shall be a rebuttable presumption that the form of any question approved by the county counselor, county attorney or district attorney complies with the requirements of this act. If such opinion is not furnished within five days of submission of the question, the form of the question shall be deemed in compliance with the requirements of this act.

If the advisory opinion states that the form of the question contained in the petition does not comply with the requirements of this act, such advisory opinion shall also state specific grounds to support such determination.

Nothing in this subsection shall be construed as prohibiting the circulation of a petition for signatures or the filing of such petition with the county election officer prior to obtaining the advisory opinion required by this subsection.

(b) Any person challenging the validity of the form of a question shall have the burden of proving in the district court that the form of the question is invalid.

(c) The form of any question in a petition requesting an election on or protesting an ordinance, or resolution, adopted by the governing body of any county, city, school district or other municipality shall be presumed to be valid and in compliance with the requirements of K.S.A. 25-3601 et seq., and amendments thereto, if such petition states the title, number and exact language of the ordinance, or resolution, and the title of such petition states:

“Shall the following ordinance, or resolution, become effective?”

(d) When any other statute imposes specific requirements which are different from the requirements imposed by K.S.A. 25-3601 et seq., and amendments thereto, the provisions of the specific statute shall control. The county election officer or other official with whom the petition is required to be filed in accordance with the applicable statute shall give to persons requesting information regarding the filing of petitions a copy of K.S.A. 25-620 and article 36 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto.

(e) Any action challenging the validity of the form of a question in a petition shall be filed in the district court within 20 days after such petition has been filed with the county election officer.

The court shall render an opinion in any action filed to challenge the validity of the form of a question in a petition within 20 days after the date such action is filed with the court.

(f) The provisions of K.S.A. 25-3601 et seq., and amendments thereto, shall not apply to recall petitions as described in K.S.A. 25-4301



et seq., and amendments thereto, *or a grand jury petition as described in K.S.A. 22-3001(c), and amendments thereto.*

Sec. 10. K.S.A. 2016 Supp. 21-6620, 21-6622, 21-6623, 21-6627, 21-6810, 22-2302, 22-3001, 22-3716 and 25-3601 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved June 9, 2017.

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CHAPTER 93

Senate Substitute for HOUSE BILL No. 2278

AN ACT concerning firearms; relating to the personal and family protection act; prohibiting the carrying of concealed firearms in certain buildings; concerning the liability of public employers; amending K.S.A. 2016 Supp. 75-7c10 and 75-7c20 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 75-7c10 is hereby amended to read as follows: 75-7c10. Subject to the provisions of K.S.A. 2016 Supp. 75-7c20, and amendments thereto:

(a) The carrying of a concealed handgun shall not be prohibited in any building unless such building is conspicuously posted in accordance with rules and regulations adopted by the attorney general.

(b) Nothing in this act shall be construed to prevent any private employer from restricting or prohibiting by personnel policies persons from carrying a concealed handgun while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a handgun in a private means of conveyance, even if parked on the employer's premises.

(c) (1) Any private entity which provides adequate security measures in a private building and which conspicuously posts signage in accordance with this section prohibiting the carrying of a concealed handgun in such building shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

(2) Any private entity which does not provide adequate security measures in a private building and which allows the carrying of a concealed handgun shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

(3) Nothing in this act shall be deemed to increase the liability of any

private entity where liability would have existed under the personal and family protection act prior to the effective date of this act.

(d) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may permit any employee, who is legally qualified, to carry a concealed handgun in any building of such institution, if the employee meets such institution's own policy requirements regardless of whether such building is conspicuously posted in accordance with the provisions of this section:

- (1) A unified school district;
- (2) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto;
- (3) a state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;
- (4) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;
- (5) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto; or
- (6) an indigent health care clinic, as defined by K.S.A. 2016 Supp. 65-7402, and amendments thereto.

(e) No public employer shall restrict or otherwise prohibit by personnel policies any employee, who is legally qualified, from carrying any concealed handgun while engaged in the duties of such employee's employment outside of such employer's place of business, including while in a means of conveyance. *Public employers shall not be liable for any wrongful or negligent act of an employee carrying a concealed handgun that is not being carried in the course and scope of such employee's employment, concerning acts or omissions regarding such handguns.*

(f) (1) It shall be a violation of this section to carry a concealed handgun in violation of any restriction or prohibition allowed by subsection (a) or (b) if the building is posted in accordance with rules and regulations adopted by the attorney general pursuant to subsection (j). Any person who violates this section shall not be subject to a criminal penalty but may be subject to denial to such premises or removal from such premises.

(2) Notwithstanding the provisions of subsection (a) or (b), it is not a violation of this section for the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a handgun within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.

(3) Notwithstanding the provisions of subsection (a) or (b), it is not

a violation of this section for a law enforcement officer, as that term is defined in K.S.A. 2016 Supp. 75-7c22, and amendments thereto, who satisfies the requirements of either K.S.A. 2016 Supp. 75-7c22(a) or (b), and amendments thereto, to possess a handgun within any of the buildings described in subsection (a) or (b), subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.

(g) The provisions of this section shall not apply to the carrying of a concealed handgun in the state capitol.

(h) For the purposes of this section:

(1) “Adequate security measures” shall have the same meaning as the term is defined in K.S.A. 2016 Supp. 75-7c20, and amendments thereto;

(2) “building” shall not include any structure, or any area of any structure, designated for the parking of motor vehicles; and

(3) “public employer” means the state and any municipality as those terms are defined in K.S.A. 75-6102, and amendments thereto, except the term “public employer” shall not include school districts.

(i) Nothing in this act shall be construed to authorize the carrying or possession of a handgun where prohibited by federal law.

(j) The attorney general shall adopt rules and regulations prescribing the location, content, size and other characteristics of signs to be posted on a building where carrying a concealed handgun is prohibited pursuant to subsections (a) and (b). Such regulations shall prescribe, at a minimum, that:

(1) The signs be posted at all exterior entrances to the prohibited buildings;

(2) the signs be posted at eye level of adults using the entrance and not more than 12 inches to the right or left of such entrance;

(3) the signs not be obstructed or altered in any way; and

(4) signs which become illegible for any reason be immediately replaced.

Sec. 2. K.S.A. 2016 Supp. 75-7c20 is hereby amended to read as follows: 75-7c20. (a) The carrying of a concealed handgun shall not be prohibited in any public area of any state or municipal building unless such public area has adequate security measures to ensure that no weapons are permitted to be carried into such public area and the public area is conspicuously posted with either permanent or temporary signage approved by the governing body, or the chief administrative officer, if no governing body exists, in accordance with K.S.A. 2016 Supp. 75-7c10, and amendments thereto.

(b) The carrying of a concealed handgun shall not be prohibited throughout any state or municipal building in its entirety unless such building has adequate security measures at all public access entrances to ensure that no weapons are permitted to be carried into such building

and the building is conspicuously posted in accordance with K.S.A. 2016 Supp. 75-7c10, and amendments thereto.

(c) No state agency or municipality shall prohibit an employee from carrying a concealed handgun at the employee's work place unless the building has adequate security measures at all public access entrances to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 2016 Supp. 75-7c10, and amendments thereto.

(d) (1) It shall not be a violation of the personal and family protection act for a person to carry a concealed handgun into a state or municipal building, or any public area thereof, so long as that person has authority to enter through a restricted access entrance into such building, or public area thereof, ~~which~~ *that* provides adequate security measures at all public access entrances and the building, or public area thereof, is conspicuously posted in accordance with K.S.A. 2016 Supp. 75-7c10, and amendments thereto.

(2) Any person, who is not an employee of the state or a municipality and is not otherwise authorized to enter a state or municipal building through a restricted access entrance, shall be authorized to enter through a restricted access entrance, provided such person:

(A) Is authorized by the chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, to enter such state or municipal building through a restricted access entrance;

(B) is issued an identification card by the chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, which includes such person's photograph, name and any other identifying information deemed necessary by the issuing entity, and which states on the identification card that such person is authorized to enter such building through a restricted access entrance; and

(C) executes an affidavit or other notarized statement that such person acknowledges that certain firearms and weapons may be prohibited in such building and that violating any such regulations may result in the revocation of such person's authority to enter such building through a restricted access entrance.

The chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, shall develop criteria for approval of individuals subject to this paragraph to enter the state or municipal building through a restricted access entrance. Such criteria may include the requirement that the individual submit to a state and national criminal history records check before issuance and renewal of such authorization and pay a fee to cover the costs of such background checks. An individual who has been issued a concealed carry permit by the state of Kansas shall not be required to submit to another state and national criminal records check before issuance and renewal of such authorization.

Notwithstanding any authorization granted under this paragraph, an individual may be subjected to additional security screening measures upon reasonable suspicion or in circumstances where heightened security measures are warranted. Such authorization does not permit the individual to carry a concealed weapon into a public building, which has adequate security measures, as defined by this act, and which is conspicuously posted in accordance with K.S.A. 2016 Supp. 75-7c10, and amendments thereto.

(e) A state agency or municipality ~~which~~ *that* provides adequate security measures in a state or municipal building and which conspicuously posts signage in accordance with K.S.A. 2016 Supp. 75-7c10, and amendments thereto, prohibiting the carrying of a concealed handgun in such building shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

(f) A state agency or municipality ~~which~~ *that* does not provide adequate security measures in a state or municipal building and ~~which~~ *that* allows the carrying of a concealed handgun shall not be liable for any wrongful act or omission relating to actions of persons carrying a concealed handgun concerning acts or omissions regarding such handguns.

(g) Nothing in this act shall limit the ability of a corrections facility, a jail facility or a law enforcement agency to prohibit the carrying of a handgun or other firearm concealed or unconcealed by any person into any secure area of a building located on such premises, except those areas of such building outside of a secure area and readily accessible to the public shall be subject to the provisions of subsection (a).

(h) Nothing in this section shall limit the ability of the chief judge of each judicial district to prohibit the carrying of a concealed handgun by any person into courtrooms or ancillary courtrooms within the district provided the public area has adequate security measures to ensure that no weapons are permitted to be carried into such public area and the public area is conspicuously posted in accordance with K.S.A. 2016 Supp. 75-7c10, and amendments thereto.

(i) The governing body or the chief administrative officer, if no governing body exists, of a state or municipal building, may exempt the building, or any public area thereof, from this section until July 1, 2017, by adopting a resolution, or drafting a letter, listing the legal description of such building, listing the reasons for such exemption, and including the following statement: "A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun." A copy of the security plan for the building shall be maintained on file and shall be made available, upon request, to the Kansas attorney general and the law enforcement agency of local jurisdiction. Notice of this exemption, together with the resolution adopted or the letter drafted,

shall be sent to the Kansas attorney general and to the law enforcement agency of local jurisdiction. The security plan shall not be subject to disclosure under the Kansas open records act.

(j) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions *postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto*, may exempt any building of such institution, *including any buildings located on the grounds of such institution and any buildings leased by such institution*, or any public area thereof, from this section until July 1, 2017, by stating the reasons for such exemption and sending notice of such exemption to the Kansas attorney general:

~~(1) A state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;~~

~~(2) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;~~

~~(3) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;~~

~~(4) an indigent health care clinic, as defined by K.S.A. 2016 Supp. 65-7402, and amendments thereto; or~~

~~(5) a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, including any buildings located on the grounds of such institution and any buildings leased by such institution.~~

(k) The provisions of this section shall not apply to:

(1) Any building located on the grounds of the Kansas state school for the deaf or the Kansas state school for the blind;

(2) *a state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;*

(3) *a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;*

(4) *a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;*

(5) *an indigent health care clinic, as defined by K.S.A. 2016 Supp. 65-7402, and amendments thereto; or*

(6) *any building owned or leased by the authority created under the university of Kansas hospital authority act, any building located within the health care district, as defined in the unified government of Wyandotte county and Kansas City, Kansas City-wide master plan, Rosedale master plan and traffic study or similar master plan or comprehensive planning or zoning document approved by the unified government of Wyandotte county and Kansas City, Kansas in effect on January 12, 2017.*

(l) Nothing in this section shall be construed to prohibit any law enforcement officer, as defined in K.S.A. 2016 Supp. 75-7c22, and amendments thereto, who satisfies the requirements of either K.S.A. 2016 Supp. 75-7c22(a) or (b), and amendments thereto, from carrying a concealed handgun into any state or municipal building, or any public area thereof,

in accordance with the provisions of K.S.A. 2016 Supp. 75-7c22, and amendments thereto, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district.

(m) For purposes of this section:

(1) “Adequate security measures” means the use of electronic equipment and armed personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, or any public area thereof, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building or public area by members of the public. Adequate security measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.

(2) “Authorized personnel” means employees of a state agency or municipality and any person granted authorization pursuant to subsection (d)(2), who are authorized to enter a state or municipal building through a restricted access entrance.

(3) The terms “municipality” and “municipal” are interchangeable and have the same meaning as the term “municipality” is defined in K.S.A. 75-6102, and amendments thereto, but does not include school districts.

(4) “Public area” means any portion of a state or municipal building that is open to and accessible by the public or which is otherwise designated as a public area by the governing body or the chief administrative officer, if no governing body exists, of such building.

(5) “Restricted access entrance” means an entrance that is restricted to the public and requires a key, keycard, code, or similar device to allow entry to authorized personnel.

(6) “State” means the same as the term is defined in K.S.A. 75-6102, and amendments thereto.

(7) (A) “State or municipal building” means a building owned or leased by such public entity. It does not include a building owned by the state or a municipality which is leased by a private entity whether for profit or not-for-profit or a building held in title by the state or a municipality solely for reasons of revenue bond financing.

(B) The term “state and municipal building” shall not include the state capitol.

(8) “Weapon” means a weapon described in K.S.A. 2016 Supp. 21-6301, and amendments thereto, except the term “weapon” shall not include any cutting instrument that has a sharpened or pointed blade.

(n) This section shall be a part of and supplemental to the personal and family protection act.

Sec. 3. K.S.A. 2016 Supp. 75-7c10 and 75-7c20 are hereby repealed.

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

(See Messages from the Governor)

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## CHAPTER 94

### HOUSE BILL No. 2079

AN ACT concerning health and healthcare; providing for reimbursement to eligible providers for medicaid ground emergency medical transportation services; relating to health maintenance organizations; privilege fees; rate; disposition of moneys; extending the medical assistance fee fund; establishing the community mental health center improvement fund; amending K.S.A. 2016 Supp. 40-3213, 40-3236 and 65-180 and repealing the existing sections.

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

New Section 1. (a) An eligible provider, as described in subsection (b), in addition to the rate of payment that the provider would otherwise receive for medicaid ground emergency medical transportation services, shall receive supplemental medicaid reimbursement to the extent provided by law.

(b) A provider shall be eligible for supplemental reimbursement only if the provider meets the following conditions during the reporting period:

(1) Provides ground emergency medical transportation services to medicaid beneficiaries;

(2) is a provider that is enrolled as a medicaid provider for the period being claimed; and

(3) is owned or operated by the state, a political subdivision or local government, that employs or contracts with persons or providers who are licensed or permitted to provide emergency medical services in the state of Kansas, including hospitals and private entities to the extent permissible under federal law.

(c) An eligible provider's supplemental reimbursement pursuant to this section shall be calculated and paid as follows:

(1) The supplemental reimbursement to an eligible provider, as described in subsection (b), shall be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to subsection (f)(2);

(2) in no instance may the amount certified pursuant to subsection (e)(1), when combined with the amount received from all other sources of reimbursement from the medicaid program, exceed or be less than 100% of actual costs, as determined pursuant to the medicaid state plan, for ground emergency medical transportation services; and

(3) the supplemental medicaid reimbursement provided by this section must be distributed exclusively to eligible providers under a payment



methodology based on ground emergency medical transportation services provided to medicaid beneficiaries by eligible providers on a per-transport basis or other federally permissible basis. The department of health and environment shall obtain approval from the federal centers for medicare and medicaid services for the payment methodology to be utilized, and shall not make any payment pursuant to this section prior to obtaining that approval.

(d) (1) It is the legislature's intent in enacting this section to provide the supplemental reimbursement described in this section without any expenditure from the state general fund. An eligible provider, as a condition of receiving supplemental reimbursement pursuant to this section, shall enter into, and maintain, an agreement with the department for the purposes of implementing this section and reimbursing the department for the costs of administering this section.

(2) The nonfederal share of the supplemental reimbursement submitted to the federal centers for medicare and medicaid services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in subsection (b)(3) and certified to the state as provided in subsection (e).

(e) Participation in the program by an eligible provider described in this section is voluntary. If an applicable governmental entity elects to seek supplemental reimbursement pursuant to this section on behalf of an eligible provider, the governmental entity shall do the following:

(1) Certify, in conformity with the requirements of 42 C.F.R. § 433.51, that the claimed expenditures for the ground emergency medical transportation services are eligible for federal financial participation;

(2) provide evidence supporting the certification as specified by the department;

(3) submit data as specified by the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation; and

(4) keep, maintain, and have readily retrievable any records specified by the department to fully disclose reimbursement amounts to which the eligible provider is entitled, and any other records required by the federal centers for medicare and medicaid services.

(f) The department shall promptly seek any necessary federal approvals for the implementation of this section. The department may limit the program to those costs that are allowable expenditures under title XIX of the federal social security act, 42 U.S.C. § 1396 et seq. If federal approval is not obtained for implementation of this section, this section shall not be implemented.

(1) The department shall submit claims for federal financial participation for the expenditures for the services described in subsection (e) that are allowable expenditures under federal law.

(2) The department shall submit any necessary materials to the fed-

eral government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law. The department may utilize intergovernmental transfers or certified public expenditures to implement this section subject to the same provisions and requirements of section 2, and amendments thereto.

New Sec. 2. (a) The department of health and environment shall design and implement, in consultation and coordination with eligible providers as described in subsection (b), an intergovernmental transfer program relating to medicaid managed care, ground emergency medical transport services and those services provided by emergency medical services personnel at the emergency medical responder, emergency medical technician, advanced emergency medical technician and paramedic levels in the pre-stabilization and preparation for transport.

(b) A provider shall be eligible to transfer public funds to the state pursuant to this section only if the provider meets both of the following conditions in an applicable reporting period:

(1) Provides ground emergency medical transport services to medicaid managed care enrollees pursuant to a contract or other arrangement with a medicaid managed care plan; and

(2) is owned or operated by the state, a political subdivision or local government that employs or contracts with persons or providers who are licensed or permitted to provide emergency medical services in the state of Kansas, including hospitals and private entities to the extent permissible under federal law.

(c) To the extent intergovernmental transfers are voluntarily made by, and accepted from, an eligible provider described in subsection (b), or a governmental entity affiliated with an eligible provider, the department shall make increased capitation payments to applicable medicaid managed care plans.

(1) The increased capitation payments made pursuant to this section shall be, at a minimum, in actuarially determined amounts to the extent permissible under federal law.

(2) Except as provided in subsection (f), funds associated with intergovernmental transfers made and accepted pursuant to this section shall be used to fund additional payments to medicaid managed care plans.

(3) Medicaid managed care plans shall enter into contracts or contract amendments with eligible providers for the disbursement of increased capitation payments made pursuant to this section.

(d) The intergovernmental transfer program developed pursuant to this section shall be implemented on the date federal approval is obtained, and only to the extent intergovernmental transfers from the eligible provider, or the governmental entity with which it is affiliated, are provided for this purpose. To the extent permissible under federal law, the department shall implement the intergovernmental transfer program and

increased capitation payments under this section on a retroactive basis as approved by the federal centers for medicare and medicaid services.

(e) Participation in the intergovernmental transfers under this section is voluntary on the part of the transferring entities for purposes of all applicable federal laws.

(f) This section shall be implemented without any additional expenditure from the state general fund. As a condition of participation under this section, each eligible provider as described in subsection (b), or the governmental entity affiliated with an eligible provider, shall agree to reimburse the department for any costs associated with implementing this section. Intergovernmental transfers described in this section are subject to an administration fee of up to 20% of the non-federal share paid to the department and shall be allowed to count as a cost of providing the services not to exceed 120% of the total amount.

(g) As a condition of participation under this section, medicaid managed care plans, eligible providers as described in subsection (b), and governmental entities affiliated with eligible providers shall agree to comply with any requests for information or similar data requirements imposed by the department for purposes of obtaining supporting documentation necessary to claim federal funds or to obtain federal approvals.

(h) This section shall be implemented only if and to the extent federal financial participation is available and is not otherwise jeopardized and any necessary federal approvals have been obtained.

(i) To the extent that the department determines that the payments made pursuant to this section do not comply with federal medicaid requirements, the department may return or not accept an intergovernmental transfer and may adjust payments pursuant to this section as necessary to comply with federal medicaid requirements.

(j) The state of Kansas and the department of health and environment shall implement whatever program the federal centers for medicare and medicaid services approves for use in Kansas under sections 1 and 2, and amendments thereto.

New Sec. 3. There is hereby established in the state treasury the community mental health center improvement fund. All moneys credited to the community mental health center improvement fund shall be used by the Kansas department for aging and disability services only for purposes related to community mental health centers. All expenditures from the community mental health center improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee.

Sec. 4. K.S.A. 2016 Supp. 40-3213 is hereby amended to read as follows: 40-3213. (a) Every health maintenance organization and medi-

care provider organization subject to this act shall pay to the commissioner the following fees:

- (1) For filing an application for a certificate of authority, \$150;
- (2) for filing each annual report, \$50;
- (3) for filing an amendment to the certificate of authority, \$10.

(b) Every health maintenance organization subject to this act shall pay annually to the commissioner at the time such organization files its annual report, a privilege fee in an amount equal to ~~1% per annum~~ *the following percentages* of the total of all premiums, subscription charges or any other term ~~which~~ *that* may be used to describe the charges made by such organization to enrollees, ~~except: 3.31% during the reporting period beginning January 1, 2015, and ending December 31, 2017; the privilege fee shall be 3.31%; and 5.77% on and after January 1, 2018; the privilege fee shall be 2%.~~ In such computations all such organizations shall be entitled to deduct therefrom any premiums or subscription charges returned on account of cancellations and dividends returned to enrollees. If the commissioner shall determine at any time that the application of the privilege fee, or a change in the rate of the privilege fee, would cause a denial of, reduction in or elimination of federal financial assistance to the state or to any health maintenance organization subject to this act, the commissioner is hereby authorized to terminate the operation of such privilege fee or the change in such privilege fee.

(c) For the purpose of insuring the collection of the privilege fee provided for by subsection (b), every health maintenance organization subject to this act and required by subsection (b) to pay such privilege fee shall at the time it files its annual report, as required by K.S.A. 40-3220, and amendments thereto, make a return, generated by or at the direction of its chief officer or principal managing director, under penalty of K.S.A. 2016 Supp. 21-5824, and amendments thereto, to the commissioner, stating the amount of all premiums, assessments and charges received by the health maintenance organization, whether in cash or notes, during the year ending on the last day of the preceding calendar year. Upon the receipt of such returns the commissioner of insurance shall ~~verify the same such returns and assess~~ *reconcile the fees pursuant to subsection (f)* upon such organization on the basis and at the rate provided ~~herein and such fees shall thereupon become due and payable in this section.~~

(d) Premiums or other charges received by an insurance company from the operation of a health maintenance organization subject to this act shall not be subject to any fee or tax imposed under the provisions of K.S.A. 40-252, and amendments thereto.

(e) Fees charged 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, except during the period beginning July 1, 2015, and ending on June 30, 2018, such deposit shall be to the credit of the medical assistance fee fund created by K.S.A. 2016 Supp. 40-3236, and amendments thereto.

(f) (1) *On and after January 1, 2018, in addition to any other filing or return required by this section, each health maintenance organization shall submit a report to the commissioner on or before March 31 and September 30 of each year containing an estimate of the total amount of all premiums, subscription charges or any other term that may be used to describe the charges made by such organization to enrollees that the organization expects to collect during the current calendar year. Upon filing each March 31 report, the organization shall submit payment equal to ½ of the privilege fee that would be assessed by the commissioner for the current calendar year based upon the organization's reported estimate. Upon filing each September 30 report, the organization shall submit payment equal to the balance of the privilege fee that would be assessed by the commissioner for the current calendar year based upon the organization's reported estimates.*

(2) *Any amount of privilege fees actually owed by a health maintenance organization during any calendar year in excess of estimated privilege fees paid shall be assessed by the commissioner and shall be due and payable upon issuance of such assessment.*

(3) *Any amount of estimated privilege fees paid by a health maintenance organization during any calendar year in excess of privilege fees actually owed shall be reconciled when the commissioner assesses privilege fees in the ensuing calendar year. The commissioner shall credit such excess amount against future privilege fee assessments. Any such excess amount paid by a health maintenance organization that is no longer doing business in Kansas and that no longer has a duty to pay the privilege fee shall be refunded by the commissioner from funds appropriated by the legislature for such purpose.*

Sec. 5. K.S.A. 2016 Supp. 40-3236 is hereby amended to read as follows: 40-3236. (a) There is hereby created in the state treasury the medical assistance fee fund. The commissioner of insurance shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys collected or received by the commissioner from health maintenance organizations and medicare provider organizations for the fees specified in K.S.A. 40-3213, 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 medical assistance fee fund.

(b) (1) Moneys in the medical assistance fee fund shall be expended subject to the following priorities:

(A) *First, to restore any reductions initiated during calendar year 2016 to provider reimbursement rates for state medicaid services;*

(B) *second, on July 1, 2017, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer the amount of \$3,500,000 to the community mental health center improvement fund created by section 3, and amendments thereto, and on July 1 of each year thereafter, or as soon after each such date as moneys are available, the director of accounts and reports shall transfer the amount of \$5,000,000 to the community mental health center improvement fund established by section 3, and amendments thereto;*

(C) *third, to transfer moneys to the Kansas newborn screening fund pursuant to K.S.A. 65-180, and amendments thereto; and*

(D) *fourth, if any moneys remain, for the purpose of medicaid medical assistance payments.*

(2) All expenditures from the medical assistance fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee.

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

(1) The average daily balance of moneys in the ~~medical programs~~ *assistance* fee fund for the preceding month; and

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

(d) The medical assistance fee fund shall be used for the purposes set forth in this act and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this act, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(e) The secretary of health and environment shall prepare and deliver to the legislature on or before the first day of each regular legislative session; a report ~~which~~ *that* summarizes all expenditures from the medical assistance fee fund, fund revenues and recommendations regarding the adequacy of the fund to support necessary medical assistance programs.

~~(f) The provisions of this section shall expire on July 1, 2018.~~

Sec. 6. K.S.A. 2016 Supp. 65-180 is hereby amended to read as follows: 65-180. The secretary of health and environment shall:

(a) Institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases detectable with the same specimen. This educational program shall include information about the nature of such conditions and exam-

inations for the detection thereof in early infancy in order that measures may be taken to prevent intellectual disability or morbidity resulting from such conditions.

(b) Provide recognized screening tests for phenylketonuria, galactosemia, hypothyroidism and such other diseases as may be appropriately detected with the same specimen. The initial laboratory screening tests for these diseases shall be performed by the department of health and environment or its designee for all infants born in the state. Such services shall be performed without charge.

(c) Provide a follow-up program by providing test results and other information to identified physicians; locate infants with abnormal newborn screening test results; with parental consent, monitor infants to assure appropriate testing to either confirm or not confirm the disease suggested by the screening test results; with parental consent, monitor therapy and treatment for infants with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria or other genetic diseases being screened under this statute; and establish ongoing education and support activities for individuals with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases being screened under this statute and for the families of such individuals.

(d) Maintain a registry of cases including information of importance for the purpose of follow-up services to prevent intellectual disability or morbidity.

(e) Provide, within the limits of appropriations available therefor, the necessary treatment product for diagnosed cases for as long as medically indicated, when the product is not available through other state agencies. In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed case under this subsection. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual meets medicaid eligibility, such individuals' needs shall be covered under the medicaid state plan. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual is not medicaid eligible, but is below 300% of the federal poverty level established under the most recent poverty guidelines issued by the United States department of health and human services, the department of health and environment shall provide reimbursement of between 50% to 100% of the product cost in accordance with rules and regulations adopted by the secretary of health and environment. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual exceeds 300% of the federal poverty level established under the most recent poverty guidelines issued by the United States department of health and human services, the department of health and environment shall provide reimbursement of an amount not to exceed 50% of the product cost in

accordance with rules and regulations adopted by the secretary of health and environment.

(f) Provide state assistance to an applicant pursuant to subsection (e) only after it has been shown that the applicant has exhausted all benefits from private third-party payers, medicare, medicaid and other government assistance programs and after consideration of the applicant's income and assets. The secretary of health and environment shall adopt rules and regulations establishing standards for determining eligibility for state assistance under this section.

(g) (1) Except for treatment products provided under subsection (e), if the medically necessary food treatment product for diagnosed cases must be purchased, the purchaser shall be reimbursed by the department of health and environment for costs incurred up to \$1,500 per year per diagnosed child age 18 or younger at 100% of the product cost upon submission of a receipt of purchase identifying the company from which the product was purchased. For a purchaser to be eligible for reimbursement under this subsection, the applicable income of the person or persons who have legal responsibility for the diagnosed child shall not exceed 300% of the poverty level established under the most recent poverty guidelines issued by the federal department of health and human services.

(2) As an option to reimbursement authorized under subsection (g)(1), the department of health and environment may purchase food treatment products for distribution to diagnosed children in an amount not to exceed \$1,500 per year per diagnosed child age 18 or younger. For a diagnosed child to be eligible for the distribution of food treatment products under this subsection, the applicable income of the person or persons who have legal responsibility for the diagnosed child shall not exceed 300% of the poverty level established under the most recent poverty guidelines issued by the federal department of health and human services.

(3) In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed case under this subsection.

(h) The department of health and environment shall continue to receive orders for both necessary treatment products and necessary food treatment products, purchase such products, and shall deliver the products to an address prescribed by the diagnosed individual. The department of health and environment shall bill the person or persons who have legal responsibility for the diagnosed patient for a pro-rata share of the total costs, in accordance with the rules and regulations adopted pursuant to this section.

(i) The secretary of health and environment shall adopt rules and regulations as needed to require, to the extent of available funding, newborn screening tests to screen for treatable disorders listed in the core uniform panel of newborn screening conditions recommended in the



2005 report by the American college of medical genetics entitled “Newborn Screening: Toward a Uniform Screening Panel and System” or another report determined by the department of health and environment to provide more appropriate newborn screening guidelines to protect the health and welfare of newborns for treatable disorders.

(j) In performing the duties under subsection (i), the secretary of health and environment shall appoint an advisory council to advise the department of health and environment on implementation of subsection (i).

(k) The department of health and environment shall periodically review the newborn screening program to determine the efficacy and cost effectiveness of the program and determine whether adjustments to the program are necessary to protect the health and welfare of newborns and to maximize the number of newborn screenings that may be conducted with the funding available for the screening program.

(l) There is hereby established in the state treasury the Kansas newborn screening fund ~~which~~ *that* shall be administered by the secretary of health and environment. All expenditures from the fund shall be for the newborn screening program. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary’s designee. ~~Each month~~ *On July 1 of each year*, the director of accounts and reports shall determine the amount credited to the ~~state general medical assistance fee fund pursuant to K.S.A. 40-3213, and amendments thereto~~, and shall transfer the *estimated* portion of such amount that is necessary to fund the newborn screening program for the ~~preceding month~~ *ensuing fiscal year* as certified by the secretary of health and environment or the secretary’s designee; to the *Kansas* newborn screening fund, except that such amount shall not exceed ~~the amount to be credited to the state general fund pursuant to K.S.A. 40-3213, and amendments thereto~~ *\$2,500,000 in any one fiscal year*.

Sec. 7. K.S.A. 2016 Supp. 40-3213, 40-3236 and 65-180 are hereby repealed.

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

Approved June 15, 2017.

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State foundation aid (652-00-1000-0820) .....\$1,991,268,237  
*Provided*, That any unencumbered balance in the block grants to USDs account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018.

Supplemental state aid (652-00-1000-0840) ..... \$480,920,922  
*Provided*, That any unencumbered balance in the supplemental general state aid account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018.

Mentor teacher (652-00-1000-0440) ..... \$800,000  
 Professional development ..... \$1,700,000  
 Information technology education opportunities (652-00-1000-0600) ..... \$500,000  
 Kansas reading success (652-00-1000-0070) .....\$2,100,000  
 Discretionary grants (652-00-1000-0400) ..... \$322,457

*Provided*, That the above agency shall make expenditures from the discretionary grants account during the fiscal year 2018, in the amount not less than \$125,000 for after school programs for middle school students in the sixth, seventh and eighth grades: *Provided further*, That the after school programs may also include fifth and ninth grade students, if they attend a junior high: *And provided further*, That such discretionary grants shall be awarded to after school programs that operate for a minimum of two hours a day, every day that school is in session, and a minimum of six hours a day for a minimum of five weeks during the summer: *And provided further*, That the discretionary grants awarded to after school programs shall require a \$1 for \$1 local match: *And provided further*, That the aggregate amount of discretionary grants awarded to any one after school program shall not exceed \$25,000.

School food assistance (652-00-1000-0320) ..... \$2,510,486  
 School safety hotline (652-00-1000-0230) ..... \$10,000  
 KPERS – employer contributions – USDs ..... \$261,569,312  
 KPERS – employer contributions (652-00-1000-0100) ..... \$19,707,072

*Provided*, That any unencumbered balance in the KPERS – employer contributions account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018: *Provided further*, That all expenditures from the KPERS – employer contributions account shall be for payment of participating employers’ contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers’ contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

Educable deaf-blind and severely handicapped children’s programs aid (652-00-1000-0630) ..... \$110,000

School district juvenile detention facilities and Flint Hills

job corps center grants (652-00-1000-0290)..... \$4,771,500

*Provided*, That any unencumbered balance in the school district juvenile detention facilities and Flint Hills job corps center grants account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018: *Provided further*, That expenditures shall be made from the school district juvenile detention facilities and Flint Hills job corps center grants account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-8187, and amendments thereto.

Governor’s teaching excellence scholarships and awards

(652-00-1000-0770) ..... \$327,500

*Provided*, That any unencumbered balance in the governor’s teaching excellence scholarships and awards account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018: *Provided further*, That all expenditures from the governor’s teaching excellence scholarships and awards account for teaching excellence scholarships shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *And provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants for governor’s teaching excellence scholarships shall be deposited in the state treasury and credited to the governor’s teaching excellence scholarships program repayment fund (652-00-7221-7200).

Incentive for technical education (652-00-1000-0110)..... \$50,000

*Provided*, That, on July 1, 2017, notwithstanding the provisions of K.S.A. 72-4489, and amendments thereto, or any other statute, the department of education shall grant an award in an amount equal to \$1,000 for each pupil graduating from a high school in a school district having obtained an industry-recognized credential either prior to graduation from high school or by December 31 immediately following graduation in an occupation that has been identified by the secretary of labor, in consultation with the state board of regents and the state board of education, as an occupation in highest need of additional skilled employees at the time the pupil entered the career technical education course or program in the school district: *Provided further*, That, if the amount of moneys appropriated for the above agency for fiscal year 2018 is less than the amount of moneys to be awarded to such school districts, the department of education shall prorate the available moneys to such school districts accordingly.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2018, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law and transfers to other state agencies shall not exceed the following:

State school district finance fund (652-00-7393-7000) .....	No limit
School district capital improvements fund (652-00-2880-2880) .....	No limit

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

Mineral production education fund (652-00-7669-7669)...	No limit
School district capital outlay state aid fund .....	No limit
Conversion of materials and equipment fund (652-00-2420-2020) .....	No limit
State safety fund (652-00-2538-2030) .....	No limit

*Provided*, That notwithstanding the provisions of K.S.A. 8-272, and amendments thereto, or any other statute, funds shall be distributed during fiscal year 2018 as soon as moneys are available.

School bus safety fund (652-00-2532-2300) .....	No limit
Motorcycle safety fund (652-00-2633-2050) .....	No limit
Federal indirect cost reimbursement fund (652-00-2312-2200) .....	No limit
Teacher and administrator fee fund (652-00-2728-2700) ..	No limit
Food assistance – federal fund (652-00-3230-3020) .....	No limit
Food assistance – school breakfast program – federal fund (652-00-3529-3490) .....	No limit
Food assistance – national school lunch program – federal fund (652-00-3530-3500) .....	No limit
Food assistance – child and adult care food program – federal fund (652-00-3531-3510) .....	No limit
Community-based child abuse prevention – federal fund (652-00-3319-7400) .....	No limit
Family and children investment fund (652-00-7375) .....	No limit
Elementary and secondary school aid – federal fund (652-00-3233-3040) .....	No limit
Educationally deprived children – state operations – federal fund (652-00-3131-3130) .....	No limit
Elementary and secondary school – educationally deprived children – LEA’s fund (652-00-3532-3520) .....	No limit
Education of handicapped children fund – federal (652-00-3234-3050) .....	No limit

Education of handicapped children fund – state operations – federal fund (652-00-3534-3540).....	No limit
Education of handicapped children fund – preschool – federal fund (652-00-3535-3550).....	No limit
Education of handicapped children fund – preschool state operations – federal (652-00-3536-3560).....	No limit
Elementary and secondary school aid – federal fund – migrant education fund (652-00-3537-3570).....	No limit
Elementary and secondary school aid – federal fund – migrant education – state operations (652-00-3538-3580).....	No limit
Vocational education title II – federal fund (652-00-3539-3590).....	No limit
Vocational education title II – federal fund – state operations (652-00-3540-3600).....	No limit
Educational research grants and projects fund (652-00-3592-3070).....	No limit
Inservice education workshop fee fund (652-00-2230-2010).....	No limit

*Provided*, That expenditures may be made from the inservice education workshop fee fund for operating expenditures, including official hospitality, incurred for inservice workshops and conferences: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for inservice workshops and conferences: *And provided further*, That such fees shall be fixed in order to recover all or part of such operating expenditures incurred for inservice workshops and conferences: *And provided further*, That all fees received for inservice workshops and conferences shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the inservice education workshop fee fund.

Private donations, gifts, grants and bequests fund (652-00-7307-5000).....	No limit
Reimbursement for services fund (652-00-3056-3200).....	No limit
Communities in schools program fund (652-00-2221-2400).....	No limit
Governor’s teaching excellence scholarships program repayment fund (652-00-7221-7200).....	No limit

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

of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants made under the governor’s teaching excellence scholarships program shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the governor’s teaching excellence scholarships program repayment fund.

State grants for improving teacher quality – federal fund (652-00-3526-3860) .....	No limit
State grants for improving teacher quality – federal fund – state operations (652-00-3527-3870).....	No limit
21st century community learning centers – federal fund (652-00-3519-3890) .....	No limit
State assessments – federal fund (652-00-3520-3800).....	No limit
Rural and low-income schools program – federal fund (652-00-3521-3810) .....	No limit
TANF children’s programs – federal fund (652-00-3323-0530).....	No limit
ESSA – student support academic enrichment – federal fund .....	No limit
Language assistance state grants – federal fund (652-00-3522-3820) .....	No limit
Service clearing fund (652-00-2869-2800) .....	No limit
Helping schools license plate program fund (652-00-2606-2600).....	No limit
General state aid transportation weighting – state highway fund (652-00-2222-2222) .....	No limit

*Provided*, That on July 1, 2017, October 1, 2017, January 1, 2018, and April 1, 2018, the director of accounts and reports shall transfer \$24,150,000 from the state highway fund of the department of transportation to the general state aid transportation weighting – state highway fund of the department of education.

Special education transportation weighting – state highway fund (652-00-2223-2223) .....	No limit
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*Provided*, That on July 1, 2017, October 1, 2017, January 1, 2018, and April 1, 2018, the director of accounts and reports shall transfer \$2,500,000 from the state highway fund of the department of transportation to the special education transportation weighting – state highway fund of the department of education.

Career and technical education transportation – state highway fund (652-00-2139-2139).....	No limit
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*Provided*, That on July 1, 2017, the director of accounts and reports shall transfer \$650,000 from the state highway fund of the department of trans-

portation to the career and technical education transportation – state highway fund of the department of education.

Local school district contribution program checkoff fund .....	No limit
Educational technology coordinator fund (652-00-2157-2157) .....	No limit

*Provided*, That expenditures shall be made by the above agency for the fiscal year ending June 30, 2018, from the educational technology coordinator fund of the department of education to provide data on the number of school districts served and cost savings for those districts in fiscal year 2018 in order to assess the cost effectiveness of the position of educational technology coordinator.

School district extraordinary declining enrollment fund.... \$2,593,452

(c) There is appropriated for the above agency from the children’s initiatives fund for the fiscal year ending June 30, 2018, the following:

Parent education program (652-00-2000-2510) ..... \$7,237,635

*Provided*, That any unencumbered balance in the parent education program account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018: *Provided further*, That expenditures from the parent education program account for each such grant shall be matched by the school district in an amount that is equal to not less than 65% of the grant.

Children’s cabinet accountability fund (652-00-2000-2402)..... \$375,000

*Provided*, That any unencumbered balance in the children’s cabinet accountability fund account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018.

CIF grants (652-00-2000-2408) ..... \$15,782,638

*Provided*, That any unencumbered balance in the CIF grants account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018.

Quality initiative infants and toddlers (652-00-2000-2420)..... \$430,466

*Provided*, That any unencumbered balance in the quality initiative infants and toddlers account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018.

Early childhood block grant autism diagnosis..... \$43,047

*Provided*, That any unencumbered balance in the early childhood block grant autism diagnosis account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018.

(d) On July 1, 2017, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-1,148 or 38-1808, and amend-



ments thereto, or any other statute, the director of accounts and reports shall transfer \$50,000 from the family and children trust account of the family and children investment fund (652-00-7375-7900) of the Kansas department of education to the communities in schools program fund (652-00-2221-2400) of the department of education.

(e) On March 30, 2018, and June 30, 2018, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$550,000 from the state safety fund (652-00-2538-2030) to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services that are performed on behalf of the department of education by other state agencies that receive appropriations from the state general fund to provide such services.

(f) On July 1, 2017, and quarterly thereafter, the director of accounts and reports shall transfer \$56,250 from the state highway fund of the department of transportation to the school bus safety fund (652-00-2532-2300) of the department of education.

(g) On July 1, 2017, the director of accounts and reports shall transfer an amount certified by the commissioner of education from the motorcycle safety fund (652-00-2633-2050) of the department of education to the motorcycle safety fund (561-00-2366-2360) of the state board of regents: *Provided*, That the amount to be transferred shall be determined by the commissioner of education based on the amounts required to be paid pursuant to K.S.A. 8-272(b)(2), and amendments thereto.

(h) There is appropriated for the above agency from the expanded lottery act revenues fund for the fiscal year ending June 30, 2018, the following:

KPERS — school employer contribution (652-00-1700-1700)..... \$39,883,000

(i) On July 1, 2017, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$89,323 from the USAC E-rate program federal fund (561-00-3920-3920) of the state board of regents to the education technology coordinator fund (652-00-2157-2157) of the department of education: *Provided*, That the department of education shall provide information and data regarding the number of school districts served and cost savings attained by such school districts in order to assess the cost effectiveness of having this education technology coordinator position: *Provided further*, That such information and data shall

be available by the department of education by the end of the fiscal year 2018.

(j) There is appropriated for the above agency from the Kansas endowment for youth fund for the fiscal year ending June 30, 2018, the following:

Children’s cabinet administration..... \$248,206

*Provided*, That any unencumbered balance in the children’s cabinet administration account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018.

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, 2019, the following:

Operating expenditures (including official hospitality)  
(652-00-1000-0053) ..... \$12,685,361

*Provided*, That any unencumbered balance in the operating expenditures (including official hospitality) account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019.

Special education services aid (652-00-1000-0700) ..... \$447,980,455

*Provided*, That any unencumbered balance in the special education services aid account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019: *Provided further*, That expenditures shall not be made from the special education services aid account for the provision of instruction for any homebound or hospitalized child, unless the categorization of such child as exceptional is conjoined with the categorization of the child within one or more of the other categories of exceptionality: *And provided further*, That expenditures shall be made from this account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-983, and amendments thereto: *And provided further*, That expenditures shall be made from the amount remaining in this account, after deduction of the expenditures specified in the foregoing provisos, for payments to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-978, and amendments thereto.

State foundation aid (652-00-1000-0820) .....\$2,046,657,545

*Provided*, That any unencumbered balance in the state foundation aid account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019.

Supplemental state aid (652-00-1000-0840)..... \$486,109,284

*Provided*, That any unencumbered balance in the supplemental state aid account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019.

Mentor teacher (652-00-1000-0440).....	\$800,000
Professional development .....	\$1,700,000
Information technology education opportunities (652-00-1000-0600) .....	\$500,000
Kansas reading success (652-00-1000-0070).....	\$2,100,000
Discretionary grants (652-00-1000-0400) .....	\$322,457

*Provided*, That the above agency shall make expenditures from the discretionary grants account during the fiscal year 2019, in the amount not less than \$125,000 for after school programs for middle school students in the sixth, seventh and eighth grades: *Provided further*, That the after school programs may also include fifth and ninth grade students, if they attend a junior high: *And provided further*, That such discretionary grants shall be awarded to after school programs that operate for a minimum of two hours a day, every day that school is in session, and a minimum of six hours a day for a minimum of five weeks during the summer: *And provided further*, That the discretionary grants awarded to after school programs shall require a \$1 for \$1 local match: *And provided further*, That the aggregate amount of discretionary grants awarded to any one after school program shall not exceed \$25,000.

School food assistance (652-00-1000-0320).....	\$2,510,486
School safety hotline (652-00-1000-0230).....	\$10,000
KPERS – employer contributions – USDs (652-00-1000-0100).....	\$26,885,049
KPERS – employer contributions (652-00-1000-0100) .....	\$259,742,946

*Provided*, That any unencumbered balance in the KPERS – employer contributions account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019: *Provided further*, That all expenditures from the KPERS – employer contributions account shall be for payment of participating employers’ contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers’ contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

Educable deaf-blind and severely handicapped children’s programs aid (652-00-1000-0630) .....	\$110,000
School district juvenile detention facilities and Flint Hills job corps center grants (652-00-1000-0290).....	\$4,771,500

*Provided*, That any unencumbered balance in the school district juvenile detention facilities and Flint Hills job corps center grants account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019: *Provided further*, That expenditures shall be made from the school district juvenile detention facilities and Flint Hills job corps center grants

account for grants to school districts in amounts determined pursuant to and in accordance with the provisions of K.S.A. 72-8187, and amendments thereto.

Governor’s teaching excellence scholarships and awards  
(652-00-1000-0770) ..... \$327,500

*Provided*, That any unencumbered balance in the governor’s teaching excellence scholarships and awards account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019: *Provided further*, That all expenditures from the governor’s teaching excellence scholarships and awards account for teaching excellence scholarships shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *And provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants for governor’s teaching excellence scholarships shall be deposited in the state treasury and credited to the governor’s teaching excellence scholarships program repayment fund (652-00-7221-7200).

Incentive for technical education (652-00-1000-0110) ..... \$50,000

*Provided*, That, on July 1, 2018, notwithstanding the provisions of K.S.A. 72-4489, and amendments thereto, or any other statute, the department of education shall grant an award in an amount equal to \$1,000 for each pupil graduating from a high school in a school district having obtained an industry-recognized credential either prior to graduation from high school or by December 31 immediately following graduation in an occupation that has been identified by the secretary of labor, in consultation with the state board of regents and the state board of education, as an occupation in highest need of additional skilled employees at the time the pupil entered the career technical education course or program in the school district: *Provided further*, That, if the amount of moneys appropriated for the above agency for fiscal year 2019 is less than the amount of moneys to be awarded to such school districts, the department of education shall prorate the available moneys to such school districts accordingly.

(b) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2019, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law and transfers to other state agencies shall not exceed the following:

State school district finance fund (652-00-7393-7000) ..... No limit

School district capital improvements fund (652-00-2880-2880).....	No limit
<i>Provided, That expenditures from the school district capital improvements fund shall be made only for the payment of general obligation bonds approved by voters under the authority of K.S.A. 72-6761, and amendments thereto.</i>	
Mineral production education fund (652-00-7669-7669)...	No limit
School district capital outlay state aid fund .....	No limit
Conversion of materials and equipment fund (652-00-2420-2020) .....	No limit
State safety fund (652-00-2538-2030) .....	No limit
School bus safety fund (652-00-2532-2300) .....	No limit
Motorcycle safety fund (652-00-2633-2050).....	No limit
Federal indirect cost reimbursement fund (652-00-2312-2200).....	No limit
Teacher and administrator fee fund (652-00-2728-2700) ..	No limit
Food assistance – federal fund (652-00-3230-3020) .....	No limit
Food assistance – school breakfast program – federal fund (652-00-3529-3490) .....	No limit
Food assistance – national school lunch program – federal fund (652-00-3530-3500).....	No limit
Food assistance – child and adult care food program – federal fund (652-00-3531-3510).....	No limit
Community-based child abuse prevention – federal fund (652-00-3319-7400) .....	No limit
Family and children investment fund (652-00-7375).....	No limit
Elementary and secondary school aid – federal fund (652-00-3233-3040).....	No limit
Educationally deprived children – state operations – federal fund (652-00-3131-3130).....	No limit
Elementary and secondary school – educationally deprived children – LEA’s fund (652-00-3532-3520) .....	No limit
Education of handicapped children fund – federal (652-00-3234-3050).....	No limit
Education of handicapped children fund – state operations – federal fund (652-00-3534-3540).....	No limit
Education of handicapped children fund – preschool – federal fund (652-00-3535-3550).....	No limit
Education of handicapped children fund – preschool state operations – federal (652-00-3536-3560).....	No limit
Elementary and secondary school aid – federal fund – migrant education fund (652-00-3537-3570).....	No limit
Elementary and secondary school aid – federal fund – migrant education – state operations (652-00-3538-3580).....	No limit

Vocational education title II – federal fund (652-00-3539-3590).....	No limit
Vocational education title II – federal fund – state operations (652-00-3540-3600) .....	No limit
Educational research grants and projects fund (652-00-3592-3070) .....	No limit
Inservice education workshop fee fund (652-00-2230-2010).....	No limit

*Provided*, That expenditures may be made from the inservice education workshop fee fund for operating expenditures, including official hospitality, incurred for inservice workshops and conferences: *Provided further*, That the state board of education is hereby authorized to fix, charge and collect fees for inservice workshops and conferences: *And provided further*, That such fees shall be fixed in order to recover all or part of such operating expenditures incurred for inservice workshops and conferences: *And provided further*, That all fees received for inservice workshops and conferences shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the inservice education workshop fee fund.

Private donations, gifts, grants and bequests fund (652-00-7307-5000) .....	No limit
Reimbursement for services fund (652-00-3056-3200) .....	No limit
Communities in schools program fund (652-00-2221-2400) .....	No limit
Governor’s teaching excellence scholarships program repayment fund (652-00-7221-7200) .....	No limit

*Provided*, That all expenditures from the governor’s teaching excellence scholarships program repayment fund shall be made in accordance with K.S.A. 72-1398, and amendments thereto: *Provided further*, That each such grant shall be required to be matched on a \$1 for \$1 basis from nonstate sources: *And provided further*, That award of each such grant shall be conditioned upon the recipient entering into an agreement requiring the grant to be repaid if the recipient fails to complete the course of training under the national board for professional teaching standards certification program: *And provided further*, That all moneys received by the department of education for repayment of grants made under the governor’s teaching excellence scholarships program shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the governor’s teaching excellence scholarships program repayment fund.

State grants for improving teacher quality – federal fund (652-00-3526-3860) .....	No limit
State grants for improving teacher quality – federal fund – state operations (652-00-3527-3870).....	No limit

21st century community learning centers – federal fund (652-00-3519-3890) .....	No limit
State assessments – federal fund (652-00-3520-3800).....	No limit
Rural and low-income schools program – federal fund (652-00-3521-3810) .....	No limit
TANF children’s programs – federal fund (652-00-3323-0530).....	No limit
ESSA – student support academic enrichment – federal fund .....	No limit
Language assistance state grants – federal fund (652-00-3522-3820) .....	No limit
Service clearing fund (652-00-2869-2800) .....	No limit
Helping schools license plate program fund (652-00-2606-2600).....	No limit
General state aid transportation weighting – state highway fund (652-00-2222-2222) .....	No limit

*Provided*, That on July 1, 2018, October 1, 2018, January 1, 2019, and April 1, 2019, the director of accounts and reports shall transfer \$24,150,000 from the state highway fund of the department of transportation to the general state aid transportation weighting – state highway fund of the department of education.

Special education transportation weighting – state highway fund (652-00-2223-2223) .....	No limit
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*Provided*, That on July 1, 2018, October 1, 2018, January 1, 2019, and April 1, 2019, the director of accounts and reports shall transfer \$2,500,000 from the state highway fund of the department of transportation to the special education transportation weighting – state highway fund of the department of education.

Career and technical education transportation – state highway fund (652-00-2139-2139).....	No limit
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*Provided*, That on July 1, 2018, the director of accounts and reports shall transfer \$650,000 from the state highway fund of the department of transportation to the career and technical education transportation – state highway fund of the department of education.

Local school district contribution program checkoff fund .....	No limit
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Educational technology coordinator fund (652-00-2157-2157).....	No limit
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*Provided*, That expenditures shall be made by the above agency for the fiscal year ending June 30, 2019, from the educational technology coordinator fund of the department of education to provide data on the number of school districts served and cost savings for those districts in fiscal

year 2019 in order to assess the cost effectiveness of the position of educational technology coordinator.

(c) There is appropriated for the above agency from the children’s initiatives fund for the fiscal year ending June 30, 2019, the following:

Parent education program (652-00-2000-2510) ..... \$7,237,635

*Provided*, That any unencumbered balance in the parent education program account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019: *Provided further*, That expenditures from the parent education program account for each such grant shall be matched by the school district in an amount that is equal to not less than 65% of the grant.

Children’s cabinet accountability fund (652-00-2000-2402) ..... \$375,000

*Provided*, That any unencumbered balance in the children’s cabinet accountability fund account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019.

CIF grants (652-00-2000-2408) ..... \$15,782,786

*Provided*, That any unencumbered balance in the CIF grants account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019.

Quality initiative infants and toddlers (652-00-2000-2420) ..... \$430,466

*Provided*, That any unencumbered balance in the quality initiative infants and toddlers account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019.

Early childhood block grant autism diagnosis..... \$43,047

*Provided*, That any unencumbered balance in the early childhood block grant autism diagnosis account in excess of \$100 as of June 30, 2018, is hereby reappropriated for fiscal year 2019.

(d) On July 1, 2018, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-1,148 or 38-1808, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$50,000 from the family and children trust account of the family and children investment fund (652-00-7375-7900) of the Kansas department for children and families to the communities in schools program fund (652-00-2221-2400) of the department of education.

(e) On March 30, 2019, and June 30, 2019, or as soon thereafter as moneys are available, notwithstanding the provisions of K.S.A. 8-267 or 8-272, and amendments thereto, or any other statute, the director of accounts and reports shall transfer \$550,000 from the state safety fund (652-00-2538-2030) to the state general fund: *Provided*, That the transfer of such amount shall be in addition to any other transfer from the state



safety fund to the state general fund as prescribed by law: *Provided further*, That the amount transferred from the state safety fund to the state general fund pursuant to this subsection is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services that are performed on behalf of the department of education by other state agencies that receive appropriations from the state general fund to provide such services.

(f) On July 1, 2018, and quarterly thereafter, the director of accounts and reports shall transfer \$56,250 from the state highway fund of the department of transportation to the school bus safety fund (652-00-2532-2300) of the department of education.

(g) On July 1, 2018, the director of accounts and reports shall transfer an amount certified by the commissioner of education from the motorcycle safety fund (652-00-2633-2050) of the department of education to the motorcycle safety fund (561-00-2366-2360) of the state board of regents: *Provided*, That the amount to be transferred shall be determined by the commissioner of education based on the amounts required to be paid pursuant to K.S.A. 8-272(b)(2), and amendments thereto.

(h) There is appropriated for the above agency from the expanded lottery act revenues fund for the fiscal year ending June 30, 2019, the following:

KPERS — school employer contribution (652-00-1700-1700)..... \$40,084,000

(i) On July 1, 2018, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$89,323 from the USAC E-rate program federal fund (561-00-3920-3920) of the state board of regents to the education technology coordinator fund (652-00-2157-2157) of the department of education: *Provided*, That the department of education shall provide information and data regarding the number of school districts served and cost savings attained by such school districts in order to assess the cost effectiveness of having this education technology coordinator position: *Provided further*, That such information and data shall be available by the department of education by the end of the fiscal year 2019.

(j) There is appropriated for the above agency from the Kansas endowment for youth fund for the fiscal year ending June 30, 2019, the following:

Children’s cabinet administration..... \$248,571

*Provided*, That any unencumbered balance in the children’s cabinet administration account in excess of \$100 as of June 30, 2017, is hereby reappropriated for fiscal year 2018.

New Sec. 3. Sections 3 through 48, and amendments thereto, shall

be known and may be cited as the Kansas school equity and enhancement act.

New Sec. 4. As used in the Kansas school equity and enhancement act, section 3 et seq., and amendments thereto:

(a) “Adjusted enrollment” means the enrollment of a school district adjusted by adding the following weightings, if any, to the enrollment of a school district: At-risk student weighting; bilingual weighting; career technical education weighting; declining enrollment weighting; high-density at-risk student weighting; high enrollment weighting; low enrollment weighting; school facilities weighting; ancillary school facilities weighting; cost-of-living weighting; special education and related services weighting; and transportation weighting.

(b) “Ancillary school facilities weighting” means an addend component assigned to the enrollment of school districts pursuant to section 30, and amendments thereto, on the basis of costs attributable to commencing operation of one or more new school facilities by such school districts.

(c) (1) “At-risk student” means a student who is eligible for free meals under the national school lunch act, and who is enrolled in a school district that maintains an approved at-risk student assistance program.

(2) The term “at-risk student” shall not include any student enrolled in any of the grades one through 12 who is in attendance less than full time, or any student who is over 19 years of age. The provisions of this paragraph shall not apply to any student who has an individualized education program.

(d) “At-risk student weighting” means an addend component assigned to the enrollment of school districts pursuant to section 23(a), and amendments thereto, on the basis of costs attributable to the maintenance of at-risk educational programs by such school districts.

(e) “Base aid for student excellence” or “BASE aid” means an amount appropriated by the legislature in a fiscal year for the designated year. The amount of BASE aid shall be as follows:

(1) For school year 2017-2018, \$4,006;

(2) for school year 2018-2019, \$4,128; and

(3) for school year 2019-2020, and each school year thereafter, the BASE aid shall be the BASE aid amount for the immediately preceding school year plus an amount equal to the average percentage increase in the consumer price index for all urban consumers in the midwest region as published by the bureau of labor statistics of the United States department of labor during the three immediately preceding school years.

(f) “Bilingual weighting” means an addend component assigned to the enrollment of school districts pursuant to section 22, and amendments thereto, on the basis of costs attributable to the maintenance of bilingual educational programs by such school districts.

(g) “Board” means the board of education of a school district.

(h) “Budget per student” means the general fund budget of a school district divided by the enrollment of the school district.

(i) “Categorical fund” means and includes the following funds of a school district: Adult education fund; adult supplementary education fund; at-risk education fund; bilingual education fund; career and postsecondary education fund; driver training fund; educational excellence grant program fund; extraordinary school program fund; food service fund; parent education program fund; preschool-aged at-risk education fund; professional development fund; special education fund; and summer program fund.

(j) “Cost-of-living weighting” means an addend component assigned to the enrollment of school districts pursuant to section 31, and amendments thereto, on the basis of costs attributable to the cost of living in such school districts.

(k) “Current school year” means the school year during which state foundation aid is determined by the state board under section 6, and amendments thereto.

(l) “Declining enrollment weighting” means an addend component assigned to the enrollment of school districts pursuant to section 32, and amendments thereto, on the basis of costs attributable to the declining enrollment of such school districts.

(m) “Enrollment” means:

(1) The number of students regularly enrolled in kindergarten and grades one through 12 in the school district on September 20 of the preceding school year plus the number of preschool-aged at-risk students regularly enrolled in the school district on September 20 of the current school year, except a student who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the school district on September 20 and attending kindergarten or any of the grades one through 12 maintained by the school district for at least one semester or two quarters, or the equivalent thereof.

(2) If the enrollment in a school district in the preceding school year has decreased from enrollment in the second preceding school year, the enrollment of the school district in the current school year means the sum of:

(A) The enrollment in the second preceding school year, excluding students under paragraph (2)(B), minus enrollment in the preceding school year of preschool-aged at-risk students, if any, plus enrollment in the current school year of preschool-aged at-risk students, if any; and

(B) the adjusted enrollment in the second preceding school year of any students participating in the tax credit for low income students scholarship program pursuant to K.S.A. 2016 Supp. 72-99a01 et seq., and amendments thereto, in the preceding school year, if any, plus the adjusted enrollment in the preceding school year of preschool-aged at-risk students who are participating in the tax credit for low income students

scholarship program pursuant to K.S.A. 2016 Supp. 72-99a01 et seq., and amendments thereto, in the current school year, if any.

(3) For any school district that has a military student, as that term is defined in section 11, and amendments thereto, enrolled in such district, and that received federal impact aid for the preceding school year, if the enrollment in such school district in the preceding school year has decreased from enrollment in the second preceding school year, the enrollment of the school district in the current school year means whichever is the greater of:

(A) The enrollment determined under subsection (m)(2); or

(B) the sum of the enrollment in the preceding school year of preschool-aged at-risk students, if any, and the arithmetic mean of the sum of:

(i) The enrollment of the school district in the preceding school year minus the enrollment in such school year of preschool-aged at-risk students, if any;

(ii) the enrollment in the second preceding school year minus the enrollment in such school year of preschool-aged at-risk students, if any; and

(iii) the enrollment in the third preceding school year minus the enrollment in such school year of preschool-aged at-risk students, if any.

(4) (A) For school year 2017-2018, the enrollment determined under paragraph (1), (2) or (3), except if the school district offers kindergarten on a full-time basis in such school year, students regularly enrolled in kindergarten in the school district in the preceding school year shall be counted as one student regardless of actual attendance during such preceding school year.

(B) For school year 2018-2019 and each school year thereafter, the enrollment determined under paragraph (1), (2) or (3), except if the school district begins to offer kindergarten on a full-time basis in such school year, students regularly enrolled in kindergarten in the school district in the preceding school year shall be counted as one student regardless of actual attendance during such preceding school year.

(n) "February 20" has its usual meaning, except that in any year in which February 20 is not a day on which school is maintained, it means the first day after February 20 on which school is maintained.

(o) "Federal impact aid" means an amount equal to the federally qualified percentage of the amount of moneys a school district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

(p) “General fund” means the fund of a school district from which operating expenses are paid and in which is deposited all amounts of state foundation aid provided under this act, payments under K.S.A. 72-7105a, and amendments thereto, payments of federal funds made available under the provisions of title I of public law 874, except amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program and such other moneys as are provided by law.

(q) “General fund budget” means the amount budgeted for operating expenses in the general fund of a school district.

(r) “High-density at-risk student weighting” means an addend component assigned to the enrollment of school districts pursuant to section 23(b), and amendments thereto, on the basis of costs attributable to the maintenance of at-risk educational programs by such school districts.

(s) “High enrollment weighting” means an addend component assigned to the enrollment of school districts pursuant to section 21(b), and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such school districts.

(t) “Juvenile detention facility” means the same as such term is defined in K.S.A. 72-8187, and amendments thereto.

(u) “Local foundation aid” means the sum of the following amounts:

(1) An amount equal to any unexpended and unencumbered balance remaining in the general fund of the school district, except moneys received by the school district and authorized to be expended for the purposes specified in section 40, and amendments thereto;

(2) an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, and amendments thereto, prior to their repeal;

(3) an amount equal to the amount deposited in the general fund in the current school year from moneys received in such school year by the school district under the provisions of K.S.A. 72-1046a(a), and amendments thereto;

(4) an amount equal to the amount deposited in the general fund in the current school year from moneys received in such school year by the school district pursuant to contracts made and entered into under authority of K.S.A. 72-6757, and amendments thereto;

(5) an amount equal to the amount credited to the general fund in the current school year from moneys distributed in such school year to the school district under the provisions of articles 17 and 34 of chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and under the provisions of articles 42 and 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto;

(6) an amount equal to the amount of payments received by the school district under the provisions of K.S.A. 72-979, and amendments thereto;

(7) an amount equal to the amount of any grant received by the school

district under the provisions of K.S.A. 72-983, and amendments thereto; and

(8) an amount equal to 70% of the federal impact aid of the school district.

(v) “Low enrollment weighting” means an addend component assigned to the enrollment of school districts pursuant to section 21(a), and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such school districts.

(w) “Operating expenses” means the total expenditures and lawful transfers from the general fund of a school district during a school year for all purposes, except expenditures for the purposes specified in section 40, and amendments thereto.

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

(y) “Preschool-aged at-risk student” means an at-risk student who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines governing the selection of students for participation in head start programs.

(z) “Preschool-aged exceptional children” means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten. The terms “exceptional children” and “gifted children” have the same meaning as those terms are defined in K.S.A. 72-962, and amendments thereto.

(aa) “Psychiatric residential treatment facility” means the same as such term is defined in K.S.A. 72-8187, and amendments thereto.

(bb) “School district” means a school district organized under the laws of this state that is maintaining public school for a school term in accordance with the provisions of K.S.A. 72-1106, and amendments thereto.

(cc) “School facilities weighting” means an added component assigned to the enrollment of school districts pursuant to section 28, and amendments thereto, on the basis of costs attributable to commencing operation of one or more new school facilities by such school districts.

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

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

(ff) “Special education and related services weighting” means an addend component assigned to the enrollment of school districts pursuant to section 29, and amendments thereto, on the basis of costs attributable to the maintenance of special education and related services by such school districts.

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

(hh) “State foundation aid” means the amount of aid distributed to

school district as determined by the state board pursuant to section 6, and amendments thereto.

(ii) (1) “Student” means any person who is regularly enrolled in a school district and attending kindergarten or any of the grades one through 12 maintained by the school district or who is regularly enrolled in a school district and attending kindergarten or any of the grades one through 12 in another school district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a school district and attending special education services provided for preschool-aged exceptional children by the school district.

(2) (A) Except as otherwise provided in this subsection, the following shall be counted as one student:

(i) A student in attendance full-time; and

(ii) a student enrolled in a school district and attending special education and related services, provided for by the school district.

(B) The following shall be counted as  $\frac{1}{2}$  student:

(i) A student enrolled in a school district and attending special education and related services for preschool-aged exceptional children provided for by the school district; and

(ii) a preschool-aged at-risk student enrolled in a school district and receiving services under an approved at-risk student assistance plan maintained by the school district.

(C) A student in attendance part-time shall be counted as that proportion of one student (to the nearest  $\frac{1}{10}$ ) that the student’s attendance bears to full-time attendance.

(D) A student enrolled in and attending an institution of postsecondary education that is authorized under the laws of this state to award academic degrees shall be counted as one student if the student’s postsecondary education enrollment and attendance together with the student’s attendance in either of the grades 11 or 12 is at least  $\frac{5}{6}$  time, otherwise the student shall be counted as that proportion of one student (to the nearest  $\frac{1}{10}$ ) that the total time of the student’s postsecondary education attendance and attendance in grades 11 or 12, as applicable, bears to full-time attendance.

(E) A student enrolled in and attending a technical college, a career technical education program of a community college or other approved career technical education program shall be counted as one student, if the student’s career technical education attendance together with the student’s attendance in any of grades nine through 12 is at least  $\frac{5}{6}$  time, otherwise the student shall be counted as that proportion of one student (to the nearest  $\frac{1}{10}$ ) that the total time of the student’s career technical education attendance and attendance in any of grades nine through 12 bears to full-time attendance.

(F) A student enrolled in a school district and attending a non-virtual

school and also attending a virtual school shall be counted as that proportion of one student (to the nearest  $\frac{1}{10}$ ) that the student's attendance at the non-virtual school bears to full-time attendance.

(G) A student enrolled in a school district and attending special education and related services provided for by the school district and also attending a virtual school shall be counted as that proportion of one student (to the nearest  $\frac{1}{10}$ ) that the student's attendance at the non-virtual school bears to full-time attendance.

(H) (i) Except as provided in clause (ii), a student enrolled in a school district who is not a resident of Kansas shall be counted as follows:

(a) For school years 2017-2018 and 2018-2019, one student;  
 (b) for school year 2019-2020 and 2020-2021,  $\frac{3}{4}$  of a student; and  
 (c) for school year 2021-2022 and each school year thereafter,  $\frac{1}{2}$  of a student.

(ii) This subparagraph (H) shall not apply to:

(a) A student whose parent or legal guardian is an employee of the school district where such student is enrolled; or

(b) a student who attended public school in Kansas during school year 2016-2017 and who attended public school in Kansas during the immediately preceding school year.

(3) The following shall not be counted as a student:

(A) An individual residing at the Flint Hills job corps center;

(B) except as provided in subsection (ii)(2), an individual confined in and receiving educational services provided for by a school district at a juvenile detention facility; and

(C) an individual enrolled in a school district but housed, maintained and receiving educational services at a state institution or a psychiatric residential treatment facility.

(4) A student enrolled in virtual school pursuant to K.S.A. 72-3711 et seq., and amendments thereto, shall be counted in accordance with the provisions of K.S.A. 2016 Supp. 72-3715, and amendments thereto.

(jj) "Total foundation aid" means an amount equal to the product obtained by multiplying the BASE aid by the adjusted enrollment of a school district.

(kk) "Transportation weighting" means an addend component assigned to the enrollment of school districts pursuant to section 20, and amendments thereto, on the basis of costs attributable to the provision or furnishing of transportation.

(ll) "Virtual school" means the same as such term is defined in K.S.A. 2016 Supp. 72-3712, and amendments thereto.

New Sec. 5. (a) The state school district finance fund, established by K.S.A. 1991 Supp. 72-7081, prior to its repeal, is hereby continued in existence and shall consist of: (1) All moneys credited to such fund under K.S.A. 2016 Supp. 72-6463 through 72-6481, prior to their expiration;



and (2) all amounts transferred to such fund under sections 8, 14, 15, 30, 31 and 32, and amendments thereto.

(b) The state school district finance fund shall be used for the purpose of school district finance and for no other governmental purpose. It is the intent of the legislature that the fund shall remain intact and inviolate for such purpose, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(c) Amounts in the state school district finance fund shall be allocated and distributed to school districts as a portion of state foundation aid provided for under this act.

New Sec. 6. In each school year, the state board shall determine the amount of state foundation aid for each school district for such school year. The state board shall determine the amount of the school district's local foundation aid for the school year. If the amount of the school district's local foundation aid is greater than the amount of total foundation aid determined for the school district for the school year, the school district shall not receive state foundation aid in any amount. If the amount of the school district's local foundation aid is less than the amount of total foundation aid determined for the school district for the school year, the state board shall subtract the amount of the school district's local foundation aid from the amount of total foundation aid. The remainder is the amount of state foundation aid the school district shall receive for the school year.

New Sec. 7. (a) The distribution of state foundation aid under this act shall be made in accordance with appropriation acts each year as provided in this section.

(b) (1) In the months of July through May of each school year, the state board shall determine the amount of state foundation aid that will be required by each school district to maintain operations in each such month. In making such determination, the state board shall take into consideration the school district's access to local foundation aid and the obligations of the general fund that must be satisfied during the month. The amount determined by the state board under this provision is the amount of state foundation aid that will be distributed to the school district in the months of July through May.

(2) In the month of June of each school year, payment shall be made of the full amount of the state foundation aid determined for the school year less the sum of the monthly payments made in the months of July through May pursuant to subsection (b)(1).

(c) Payments of state foundation aid shall be distributed to school districts once each month on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due as state foundation aid to each school district in each of the months

of July through June. Such certification, and the amount of state foundation aid payable from the state general fund, shall be approved by the director of the budget. The director of accounts and reports shall draw warrants on the state treasurer payable to the school district treasurer of each school district, pursuant to vouchers approved by the state board. Upon receipt of such warrant, each school district treasurer shall deposit the amount of state foundation aid in the general fund of the school district, except that an amount equal to the amount of federal impact aid not included in the local foundation aid of a school district may be disposed of as provided in section 38(a), and amendments thereto.

(d) If any amount of state foundation aid that is due to be paid during the month of June of a school year pursuant to the other provisions of this section is not paid on or before June 30 of such school year, then such payment shall be paid on or after the ensuing July 1, as soon as moneys are available therefor. Any payment of state foundation aid that is due to be paid during the month of June of a school year and that is paid to school districts on or after the ensuing July 1 shall be recorded and accounted for by school districts as a receipt for the school year ending on the preceding June 30.

New Sec. 8. In the event any school district is paid more than it is entitled to receive under any distribution made under this act or under any statute repealed by this act, the state board shall notify the school district of the amount of such overpayment, and such school district shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund. If any school district fails to remit, the state board shall deduct the excess amounts paid from future payments becoming due to the school district. In the event any school district is paid less than the amount it is to receive under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.

New Sec. 9. On or before October 10 of each school year, the clerk or superintendent of each school district shall certify under oath to the state board a report showing the total enrollment of the school district by grades maintained in the schools of the school district and such other reports as the state board may require. Each such report shall show post-secondary education enrollment, career technical education enrollment, special education enrollment, bilingual education enrollment, at-risk student enrollment and virtual school enrollment in such detail and form as is specified by the state board. Upon receipt of such reports, the state board shall examine the reports and if the state board finds any errors in

any such report, the state board shall consult with the school district officer furnishing the report and make any necessary corrections in the report. On or before August 25 of each year, each such clerk or superintendent shall also certify to the state board a copy of the budget adopted by the school district.

New Sec. 10. (a) If the state board determines that the enrollment of a school district in the preceding school year decreased from the enrollment in the second preceding school year and that a disaster contributed to such decrease, the enrollment of such school district in the second school year following the school year in which the enrollment of the school district was first affected by the disaster shall be the greater of:

(1) The enrollment of preschool-aged at-risk students, if any, plus the average of the enrollment for the current and the preceding three school years, excluding the enrollment of preschool-aged at-risk students in each such year; or

(2) the enrollment of the school district, as defined in section 4, and amendments thereto.

(b) As used in this section, “disaster” means the occurrence of widespread or severe damage, injury or loss of life or property resulting from flood, earthquake, tornado, wind, storm, drought, blight or infestation.

New Sec. 11. (a) Each school year, the state board shall:

(1) Determine the number of students enrolled in each school district on September 20; and

(2) determine the number of military students enrolled in each school district on February 20, who were not enrolled on the preceding September 20.

(b) If the number obtained under subsection (a)(2) is 25 or more, or such number is at least 1% of the number determined under subsection (a)(1), an amount equal to the number obtained under subsection (a)(2) shall be added to the number determined under subsection (a)(1). The resulting sum is the enrollment of the school district.

(c) The state board shall recompute the adjusted enrollment of the school district and the general fund budget of the school district based on the enrollment as determined under this section.

(d) School districts desiring to determine enrollment under this section shall submit any documentation or information required by the state board.

(e) As used in this section, the term “military student” means a person who is a dependent of a full-time active duty member of the military service or a dependent of a member of any of the United States military reserve forces who has been ordered to active duty under 10 U.S.C. §§ 12301, 12302 or 12304, or ordered to full-time active duty for a period of more than 30 consecutive days under 32 U.S.C. §§ 502(f) or 512 for

the purposes of mobilizing for war, international peacekeeping missions, national emergency or homeland defense activities.

New Sec. 12. Whenever a new school district has been established or the boundaries of a school district have been changed, the state board shall make appropriate revisions concerning the affected school districts as may be necessary for the purposes of this act to reflect such establishment of a school district or changes in boundaries. Such revisions shall be based on the most reliable data obtainable from the superintendent of the school district and the county clerk.

New Sec. 13. (a) (1) For the purposes of this act, the total foundation aid for any school district formed by consolidation in accordance with the statutory provisions contained in article 87 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, shall be computed by the state board by determining the amount of the total foundation aid each of the former school districts that comprise the consolidated school district received in the school year preceding the date the consolidation was completed, and calculating the sum of such amounts. The sum is the total foundation aid of the consolidated school district for the school year in which the consolidation was completed.

(2) If any of the former school districts had an enrollment of less than 150 students in the school year preceding the consolidation, the total foundation aid of the newly consolidated school district for the two school years following the school year in which the consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the school district would receive under this act.

(3) If all of the former school districts had an enrollment of at least 150 students, but any had less than 200 students in the school year preceding the consolidation, the total foundation aid of the newly consolidated school district for the three school years following the school year in which the consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the school district would receive under this act.

(4) If all of the former school districts had an enrollment of 200 or more students in the school year preceding the consolidation, the total foundation aid of the newly consolidated school district for the four school years following the school year in which the consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the school district would receive under this act.

(5) If the consolidation involved the consolidation of three or more school districts, regardless of the number of students enrolled in the school districts, the total foundation aid of the newly consolidated school district for the four school years following the school year in which the

consolidation was completed shall be the greater of: (A) The amount received in the school year in which the consolidation was completed; or (B) the amount the school district would receive under this act.

(b) (1) The provisions of this subsection shall apply to school districts that have been enlarged by the attachment of territory pursuant to the procedure established in article 73 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto.

(2) For the purposes of this act, the total foundation aid for any school district to which this subsection applies shall be computed by the state board of education as follows: (A) Determine the amount of the total foundation aid each of the former school districts that comprise the enlarged school district received in the school year preceding the date the attachment was completed; and (B) add the amounts determined under subparagraph (A). The sum is the total foundation aid of the enlarged school district for the school year in which the attachment is completed.

(3) If any of the former school districts had an enrollment of less than 150 students in the school year preceding the attachment, the total foundation aid of the enlarged school district for the two school years following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the school district would receive under this act.

(4) If all of the former school districts had an enrollment of at least 150 students, but any had less than 200 students in the school year preceding the attachment, the total foundation aid of the enlarged school district for the three school years following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the school district would receive under this act.

(5) If all of the former school districts had an enrollment of 200 or more students in the school year preceding the attachment, the total foundation aid of the enlarged school district for the four school years following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the school district would receive under this act.

(6) If three or more school districts, regardless of the number of students enrolled in the school districts, are disorganized and attached to a single school district, the total foundation aid of the enlarged school district for the four school years following the school year in which the attachment was completed shall be the greater of: (A) The amount received in the school year in which the attachment was completed; or (B) the amount the school district would receive under this act.

(7) Except as specifically provided by this paragraph for the allocation of total foundation aid among school districts, the provisions of paragraphs

(1) through (6) shall be applicable to school districts to which this paragraph applies. If a school district is disorganized in accordance with article 73 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, and the territory of such school district is attached to more than one school district, the total foundation aid for each school district to which any territory from the disorganized school district is attached, shall be computed by the state board as follows: (A) Determine the amount of total foundation aid received by the former school district in the school year preceding the date the disorganization and attachment was completed; (B) determine the amount of total foundation aid received by the enlarged school district in the school year preceding the date the disorganization and attachment was completed; (C) determine the assessed valuation of the former school district in the school year preceding the date the disorganization and attachment was completed; (D) determine the assessed valuation of the territory attached to each enlarged school district; (E) allocate the amount of the total foundation aid received by the former school district in the school year preceding the date the disorganization and attachment was completed to each of the enlarged school districts in the same proportion the assessed valuation of the territory attached to each school district bears to the assessed valuation of the former school district; and (F) add the amounts determined under subparagraphs (B) and (E). The sum is the total foundation aid of the enlarged school district for the school year in which the attachment is completed.

New Sec. 14. (a) The board of education of each school district shall levy an ad valorem tax upon the taxable tangible property of the school district in the school years specified in subsection (b) for the purpose of:

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

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment school district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school years 2017-2018 and 2018-2019.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose described in subsection (a)(3), shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments

thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

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

New Sec. 15. (a) In each school year, the board of education of a school district may adopt, by resolution, a local option budget that does not exceed the state prescribed percentage.

(b) Subject to the limitations of subsection (a), in each school year, the board of education of a school district may adopt, by resolution, a local option budget in an amount that does not exceed:

(1) The amount that the board was authorized to adopt under any resolution adopted pursuant to K.S.A. 2016 Supp. 72-6471, prior to its expiration; or

(2) the state-wide average for the preceding school year as determined by the state board pursuant to subsection (i).

The adoption of a resolution pursuant to this section shall require a majority vote of the members of the board. Such resolution shall be effective upon adoption and shall require no other procedure, authorization or approval.

(c) If the board of a school district desires to increase its local option budget authority above the amount authorized under subsection (b), the board may adopt, by resolution, such budget in an amount not to exceed the state prescribed percentage. The adoption of a resolution pursuant to this subsection shall require a majority vote of the members of the board. The resolution shall be published at least once in a newspaper having general circulation in the school district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. \_\_\_\_\_,  
\_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year in an amount not to exceed \_\_\_\_% of the amount of total foundation aid. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of unified school district No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

All of the blanks in the resolution shall be filled appropriately. If a sufficient petition is not filed, the board may adopt a local option budget. If a sufficient petition is filed, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto. If the board fails to notify the county election officer within 30 days after a sufficient petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(d) Unless specifically stated otherwise in the resolution, the authority to adopt a local option budget shall be continuous and permanent. The board of any school district that is authorized to adopt a local option budget may choose not to adopt such a budget or may adopt a budget in an amount less than the amount authorized. If the board of any school district whose authority to adopt a local option budget is not continuous and permanent refrains from adopting a local option budget, the authority of such school district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget.

(e) The board of any school district may initiate procedures to renew or increase the authority to adopt a local option budget at any time during a school year after the tax levied pursuant to section 19, and amendments thereto, is certified to the county clerk under any existing authorization.

(f) The board of any school district authorized to adopt a local option budget prior to July 1, 2017, under a resolution that authorized the adoption of such budget in accordance with the provisions of K.S.A. 2016 Supp. 72-6471, prior to its expiration, may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section. Any such school district shall operate under the provisions of this section after the period of time specified in any previously adopted resolution has expired.

(g) Any resolution adopted pursuant to this section may revoke or repeal any resolution previously adopted by the board. If the resolution does not revoke or repeal previously adopted resolutions, all resolutions that are in effect shall expire on the same date. The maximum amount



of the local option budget of a school district under all resolutions in effect shall not exceed the state prescribed percentage in any school year.

(h) (1) There is hereby established in each school district that adopts a local option budget a supplemental general fund, which shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitations imposed under subsection (h)(3), amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to any categorical fund of the school district. Amounts in the supplemental general fund attributable to any percentage over 25% of total foundation aid determined for the current school year may be transferred to the capital improvements fund of the school district and the capital outlay fund of the school district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25%.

(3) Amounts in the supplemental general fund may not be expended for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings that is entered into pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) (A) Except as provided in subsection (h)(4)(B), any unexpended moneys remaining in the supplemental general fund of a school district at the conclusion of any school year in which a local option budget is adopted shall be maintained in such fund.

(B) If the school district received supplemental state aid in the school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the school district for the school year and multiply the total amount of the unexpended moneys remaining by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the school district or remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(i) Each year, the state board shall determine the statewide average percentage of local option budgets legally adopted by school districts for the preceding school year.

(j) The provisions of this section shall be subject to the provisions of section 16, and amendments thereto.

(k) As used in this section:

(1) "Authorized to adopt a local option budget" means that a school district has adopted a resolution pursuant to subsection (c).

(2) "State prescribed percentage" means 33% of the total foundation aid of the school district in the current school year.

(3) "Total foundation aid" means the same as such term is defined in section 4, and amendments thereto.

New Sec. 16. (a) (1) Subject to the provisions of subsection (e), the provisions of this subsection shall apply in any school year in which the amount of BASE aid is \$4,490 or less.

(2) The board of education of a school district may adopt a local option budget that does not exceed the local option budget calculated as if the BASE aid was \$4,490, or that does not exceed the local option budget as calculated pursuant to section 15, and amendments thereto, whichever is greater.

(b) The board of education of a school district may adopt a local option budget that does not exceed the local option budget calculated as if the school district received state aid for special education and related services equal to the amount of state aid for special education and related services received in school year 2008-2009, or that does not exceed the local option budget as calculated pursuant to section 15, and amendments thereto, whichever is greater.

(c) The board of any school district may exercise the authority granted under subsection (a) or (b) or both subsections (a) and (b).

(d) To the extent that the provisions of section 15, and amendments thereto, conflict with this section, this section shall control.

(e) For school year 2019-2020, and each school year thereafter, the specified dollar amount used in subsection (a) for purposes of determining the local option budget of a school district shall be the specified dollar amount used for the immediately preceding school year plus an amount equal to the average percentage increase in the consumer price index for all urban consumers in the midwest region as published by the bureau of labor statistics of the United States department of labor during the three immediately preceding school years.

New Sec. 17. (a) In each school year, each school district that has adopted a local option budget is eligible to receive supplemental state aid. Except as provided by section 18, and amendments thereto, supplemental state aid shall be determined by the state board as provided in subsection (b).

(b) The state board shall:

(1) (A) For school year 2017-2018, determine the amount of the assessed valuation per student in the preceding school year of each school district; and

(B) for school year 2018-2019 and each school year thereafter, determine the average assessed valuation per student of each school district by adding the assessed valuation per student for each of the three immediately preceding school years and dividing the resulting sum by three;

(2) rank the school districts from low to high on the basis of the amounts of assessed valuation per student determined under subsection (b)(1);

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

(4) divide the assessed valuation per student of the school district as determined under subsection (b)(1) by the amount identified under subsection (b)(3); and

(5) (A) if the quotient obtained under subsection (b)(4) equals or exceeds one, the school district shall not receive supplemental state aid; or

(B) if the quotient obtained under subsection (b)(4) is less than one, subtract the quotient obtained under subsection (b)(4) from one, and multiply the difference by the amount of the local option budget of the school district for the immediately preceding school year. The resulting product is the amount of supplemental state aid the school district is to receive for the school year.

(c) Payments of supplemental state aid shall be distributed to school districts on the dates prescribed by the state board. The state board shall certify to the director of accounts and reports the amount due each school district, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the supplemental general fund of the school district to be used for the purposes of such fund.

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

New Sec. 18. (a) (1) For the purposes of determining the amount of supplemental state aid, the state board shall determine the ranking of each of the former school districts of which the school district is composed as required by section 17(b)(2), and amendments thereto, for the school year prior to the effectuation of the consolidation or attachment.

(2) For the school year in which the consolidation or attachment is effectuated and the next succeeding two school years, the ranking of the school district for the purposes of section 17(b)(2), and amendments thereto, shall be the ranking of the school district receiving the highest amount of supplemental state aid determined under subsection (a)(1).

(b) The provisions of this section shall apply to school districts that have consolidated or disorganized on and after July 1, 2004.

(c) As used in this section, "school district" means:

(1) Any school district formed by consolidation in accordance with article 87 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto; or

(2) any school district formed by disorganization and attachment in accordance with article 73 of chapter 72 of the Kansas Statutes Annotated,

and amendments thereto, if all the territory which comprised a disorganized school district is attached to a single school district.

New Sec. 19. (a) In each school year, the board of each school district that has adopted a local option budget may levy an ad valorem tax on the taxable tangible property of the school district for the purposes of:

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

(2) paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district; and

(3) funding transfers to the capital improvement fund of the school district and the capital outlay fund of the school district if such transfers are specified in the resolution authorizing the adoption of a local option budget in excess of 25% of the total foundation aid determined for the current school year.

(b) The proceeds from the tax levied by a school district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district, shall be deposited in the supplemental general fund of the school district.

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

New Sec. 20. (a) The transportation weighting of each school district shall be determined by the state board as follows:

(1) Determine the total expenditures of the school district during the preceding school year from all funds for transporting students of public and nonpublic schools on regular school routes;

(2) determine the sum of: (A) The number of students who were included in the enrollment of the school district in the preceding school year who resided less than 2½ miles by the usually traveled road from the school building such students attended and for whom transportation was made available by the school district; and (B) the number of nonresident students who were included in the enrollment of the school district for the preceding school year and for whom transportation was made available by the school district;

(3) determine the number of students who were included in the enrollment of the district in the preceding school year who resided 2½ miles or more by the usually traveled road from the school building such students attended and for whom transportation was made available by the school district;

(4) multiply the number of students determined under subsection (a)(3) by 2.8;

(5) divide the amount determined under subsection (a)(2) by the product obtained under subsection (a)(4);

(6) add one to the quotient obtained under subsection (a)(5);

(7) multiply the sum obtained under subsection (a)(6) by the amount determined under subsection (a)(3);

(8) divide the amount determined under subsection (a)(1) by the product obtained under subsection (a)(7). The resulting quotient is the per-student cost of transportation;

(9) on a density-cost graph, plot the per-student cost of transportation for each school district;

(10) construct a curve of best fit for the points so plotted;

(11) locate the index of density for the school district on the base line of the density-cost graph and from the point on the curve of best fit directly above this point of index of density follow a line parallel to the base line to the point of intersection with the vertical line, which point is the formula per-student cost of transportation of the school district;

(12) divide the formula per-student cost of transportation of the school district by the BASE aid; and

(13) multiply the quotient obtained under subsection (a)(12) by the number of students who are included in the enrollment of the school district, are residing 2½ miles or more by the usually traveled road to the school building they attend, and for whom transportation is being made available by, and at the expense of, the district.

(b) (1) For school years 2017-2018 through 2020-2021, the transportation weighting of the school district shall be either the product determined under subsection (a)(13), or that portion of such school district's general state aid for school year 2016-2017 that was attributable to the school district's transportation weighting, whichever is greater.

(2) For school year 2021-2022, and each school year thereafter, the transportation weighting of the school district shall be the product determined under subsection (a)(13).

(c) For the purpose of providing accurate and reliable data on student transportation, the state board is authorized to adopt rules and regulations prescribing procedures that school districts shall follow in reporting pertinent information, including uniform reporting of expenditures for transportation.

(d) As used in this section:

(1) "Curve of best fit" means the curve on a density-cost graph drawn so the sum of the distances squared from such line to each of the points plotted on the graph is the least possible.

(2) "Density-cost graph" means a drawing having: (A) A horizontal or base line divided into equal intervals of density, beginning with zero on the left; and (B) a scale for per-student cost of transportation to be

shown on a line perpendicular to the base line at the left end thereof, such scale to begin with zero dollars at the base line ascending by equal per-student cost intervals.

(3) "Index of density" means the number of students who are included in the enrollment of a school district in the current school year, are residing the designated distance or more by the usually traveled road from the school building they attend, and for whom transportation is being made available on regular school routes by the school district, divided by the number of square miles of territory in the school district.

New Sec. 21. (a) The low enrollment weighting of each school district shall be determined by the state board as follows:

(1) For school districts with an enrollment of fewer than 100 students, multiply the enrollment of the school district by 1.014331. The resulting product is the low enrollment weighting of the school district;

(2) for school districts with an enrollment of at least 100 students, but fewer than 300 students:

(A) Subtract 100 from the enrollment of the school district;

(B) multiply the difference obtained under subsection (a)(2)(A) by 9.655;

(C) subtract the product obtained under subsection (a)(2)(B) from 7,337;

(D) divide the difference obtained under subsection (a)(2)(C) by 3,642.4;

(E) subtract one from the quotient obtained under subsection (a)(2)(D); and

(F) multiply the difference obtained under subsection (a)(2)(E) by the enrollment of the school district. The resulting product is the low enrollment weighting of the school district;

(3) for school districts with an enrollment of at least 300 students, but fewer than 1,622 students:

(A) Subtract 300 from the enrollment of the school district;

(B) multiply the difference obtained under subsection (a)(3)(A) by 1.2375;

(C) subtract the product obtained under subsection (a)(3)(B) from 5,406;

(D) divide the difference obtained under subsection (a)(3)(C) by 3,642.4;

(E) subtract one from the quotient obtained under subsection (c)(D); and

(F) multiply the difference obtained under subsection (a)(3)(E) by the enrollment of the school district. The resulting product is the low enrollment weighting of the school district.

(b) For school districts with an enrollment of at least 1,622 students,

multiply the enrollment of the school district by 0.03504. The resulting product is the high enrollment weighting of the school district.

New Sec. 22. The bilingual weighting of each school district shall be determined by the state board as follows:

(a) Determine the full-time equivalent enrollment in approved programs of bilingual education during the preceding school year and multiply such enrollment by 0.395;

(b) determine the number of students enrolled in approved programs of bilingual education during the preceding school year and multiply such enrollment by 0.185; and

(c) the bilingual weighting shall be either the amount determined under subsection (a) or (b), whichever is greater.

New Sec. 23. (a) The at-risk student weighting of each school district shall be determined by the state board as follows:

(1) Determine the number of at-risk students included in the enrollment of the school district; and

(2) for a school district with an enrollment that consists of 10% or more at-risk students, multiply the number determined under subsection (a)(1) by 0.484. The resulting sum is the at-risk student weighting of the school district; or

(3) for a school district with an enrollment that consists of less than 10% at-risk students, multiply the number of students equal to 10% of such school district's enrollment by 0.484. The resulting sum is the at-risk student weighting of the school district. A school district whose at-risk student weighting is determined pursuant to this paragraph shall submit a report to the state board in such form and manner as required by the state board that identifies those students enrolled in such school district who are receiving at-risk program services and the criteria each such student satisfies in order to receive at-risk program services. The state board shall adopt rules and regulations that establish the criteria for eligibility for at-risk program services. The provisions of this paragraph shall only apply to those school districts that offer instruction in kindergarten and grades one through 12.

(b) Except as provided in subsection (b)(4), the high-density at-risk student weighting of each school district shall be determined by the state board as follows:

(1) (A) If the enrollment of the school district is at least 35% at-risk students, but less than 50% at-risk students:

(i) Subtract 35% from the percentage of at-risk students included in the enrollment of the school district;

(ii) multiply the difference determined under subsection (b)(1)(A)(i) by 0.7; and

(iii) multiply the product determined under subsection (b)(1)(A)(ii)

by the number of at-risk students included in the enrollment of the school district; or

(B) if the enrollment of the school district is 50% or more at-risk students, multiply the number of at-risk students included in the enrollment of the school district by 0.105; or

(2) (A) if the enrollment of a school in the school district is at least 35% at-risk students, but less than 50% at-risk students:

(i) Subtract 35% from the percentage of at-risk students included in the enrollment of such school;

(ii) multiply the difference determined under subsection (b)(2)(A)(i) by 0.7; and

(iii) multiply the product determined under subsection (b)(2)(A)(ii) by the number of at-risk students included in the enrollment of such school; or

(B) if the enrollment of a school in the school district is 50% or more at-risk students, multiply the number of at-risk students included in the enrollment of such school by 0.105; and

(C) add the products determined under subsections (b)(2)(A)(iii) and (b)(2)(B) for each such school in the school district, respectively.

(3) The high-density at-risk weighting of the school district shall be the greater of the product determined under subsection (b)(1) or the sum determined under subsection (b)(2)(C).

(4) Commencing in school year 2018-2019, school districts that qualify to receive the high-density at-risk weighting pursuant to this section shall spend any money attributable to the school district's high-density at-risk weighting on the at-risk best practices developed by the state board pursuant to section 25(d), and amendments thereto. If a school district that qualifies for the high-density at-risk weighting does not spend such money on such best practices, the state board shall notify the school district that it shall either spend such money on such best practices or shall show improvement within five years of notification. Improvement shall include, but not be limited to, the following: (A) The percentage of students at grade level on state math and English language arts assessments; (B) the percentage of students that are college and career ready on state math and English language arts assessments; (C) the average composite ACT score; or (D) the four-year graduation rate. If a school district does not spend such money on such best practices and does not show improvement within five years, the school district shall not qualify to receive the high-density at-risk weighting in the succeeding school year.

(5) The provisions of this subsection shall expire on July 1, 2019.

New Sec. 24. (a) If a student submits an application for free meals under the national school lunch act on or before the date on which the enrollment of the school district is calculated and it is later determined by the school district or the department of education that the student



should not have been eligible for free meals, the school district or the department shall notify the state board of such determination. Except as provided in subsection (b), upon receipt of such notice, the state board shall recompute the adjusted enrollment of the school district and the general fund budget of the school district based on the adjusted enrollment of the school district excluding the at-risk student weighting and high-density at-risk student weighting, if any, assigned to such student.

(b) If a student becomes ineligible to receive free meals under the national school lunch act for failure to submit, in a timely manner, any documentation necessary for verification of eligibility as required by the national school lunch act, but subsequently submits such documentation, such student shall not be excluded from the calculation of the adjusted enrollment of the school district if the school district forwards a copy of such documentation to the state board no later than January 14 of the school year.

New Sec. 25. (a) There is hereby established in every school district an at-risk education fund, which shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a school district directly attributable to providing at-risk student assistance or programs shall be paid from the at-risk education fund.

(b) Any balance remaining in the at-risk education fund at the end of the budget year shall be carried forward into the at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

(c) Commencing in school year 2018-2019, expenditures from the at-risk education fund of a school district shall only be made for the following purposes:

(1) At-risk educational programs based on best practices identified pursuant to subsection (d);

(2) personnel providing educational services in conjunction with such programs; or

(3) services contracted for by the school district to provide at-risk educational programs based on best practices identified pursuant to subsection (d).

(d) On or before July 1, 2018, the state board shall identify and approve evidence-based best practices for at-risk programs and instruction of students receiving at-risk program services. The state board shall review and update such best practices as part of its five-year accreditation system review process.

(e) Each year the board of education of each school district shall prepare and submit to the state board a report on the assistance or programs provided by the school district for students identified as at-risk. Such report shall include the number of students identified as at-risk who were served or provided assistance, the type of service provided, the research upon which the school district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

(f) In order to achieve uniform reporting of the number of students provided service or assistance by school districts in at-risk student programs, school districts shall report the number of students served or assisted in the manner required by the state board.

New Sec. 26. (a) There is hereby established in every school district a preschool-aged at-risk education fund, which shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a school district directly attributable to providing preschool-aged at-risk assistance or programs shall be paid from the preschool-aged at-risk education fund.

(b) Any balance remaining in the preschool-aged at-risk education fund at the end of the budget year shall be carried forward into the preschool-aged at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the preschool-aged at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

(c) Each year the board of each school district shall prepare and submit to the state board a report on the preschool-aged at-risk student assistance or programs provided by the school district. Such report shall include the number of students who were served or provided assistance, the type of service provided, the research upon which the school district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

New Sec. 27. (a) The career technical education weighting of each school district shall be determined by the state board by multiplying the full-time equivalent enrollment in approved career technical education programs during the preceding school year by 0.5. The resulting product is the career technical education weighting of the school district.

(b) The provisions of this section shall expire on July 1, 2019.

New Sec. 28. (a) For each school year in which the school facilities weighting may be assigned to the enrollment of the school district, such

weighting of such school district shall be determined by the state board as follows:

(1) Determine the number of students included in the enrollment of the school district who are attending a new school facility;

(2) multiply the number of students determined under subsection (a)(1) by 0.25. The resulting product is the school facilities weighting of the school district.

(b) The school facilities weighting may be assigned to the enrollment of a school district only if:

(1) The school district adopted a local option budget for school year 2014-2015 in an amount equal to at least 25% of the amount of the state financial aid determined for the school district in such school year pursuant to K.S.A. 72-6433, prior to its repeal;

(2) the contractual bond obligations incurred by the school district were approved by the electors of the school district at an election held on or before July 1, 2015; and

(3) (A) the school district commences operation of a new school facility and the construction of such facility was financed primarily with such contractual bond obligations; or

(B) the school district commences operation of a new school facility and the construction of such facility was financed primarily with federal funds and such facility is located on a military reservation.

(c) The school facilities weighting may be assigned to the enrollment of the school district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

New Sec. 29. The special education and related services weighting of each school district shall be determined by the state board as follows:

(a) Add the amount of payments received by the school district under the provisions of K.S.A. 72-979, and amendments thereto, to the amount of any grants received by the school district under the provisions of K.S.A. 72-983, and amendments thereto; and

(b) divide the sum obtained under subsection (a) by the BASE aid. The resulting quotient is the special education and related services weighting of the school district.

New Sec. 30. (a) (1) The board of education of a school district to which the provisions of this section apply may levy an ad valorem tax on the taxable tangible property of the school district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state board of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of ancillary school facilities weighting to the enrollment of the school district. The state board of tax appeals may authorize the school district to make a levy that will produce an amount that is not greater than the difference between the amount of costs directly

attributable to commencing operation of one or more new school facilities and the amount that is financed from any other source provided by law for such purpose. If the school district is not eligible, or will be ineligible, for ancillary school facilities weighting in any one or more years during the two-year period for which the school district is authorized to levy a tax under this subsection, the state board of tax appeals may authorize the school district to make a levy, in such year or years of ineligibility, that will produce an amount that is not greater than the actual amount of costs attributable to commencing operation of the facility or facilities.

(2) The state board of tax appeals shall certify to the state board the amount authorized to be produced by the levy of a tax under this subsection.

(3) The state board of tax appeals may adopt rules and regulations necessary to effectuate the provisions of this subsection, including rules and regulations relating to the evidence required in support of a school district's claim that the costs attributable to commencing operation of one or more new school facilities are in excess of the amount that is financed from any other source provided by law for such purpose.

(b) The board of education of a school district that has levied an ad valorem tax on the taxable tangible property of the school district each year for a period of two years under authority of subsection (a) may continue to levy such tax under authority of this subsection each year for an additional period of time not to exceed six years in an amount not to exceed the amount computed by the state board as provided in this subsection if the board of the school district determines that the costs attributable to commencing operation of one or more new school facilities are significantly greater than the costs attributable to the operation of other school facilities in the school district. The tax authorized under this subsection may be levied at a rate that will produce an amount that is not greater than the amount computed by the state board as provided in this subsection. In computing such amount, the state board shall:

(1) Determine the amount produced by the tax levied by the school district under authority of subsection (a) in the second year for which such tax was levied and add to such amount the amount of state foundation aid directly attributable to ancillary school facilities weighting that was received by the school district in the same year;

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

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

(4) compute 60% of the amount of the sum obtained under subsec-

tion (b)(1), which computed amount is the amount the school district may levy in the third year of the six-year period for which the school district may levy a tax under authority of this subsection;

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

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

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

In determining the amount produced by the tax levied by the school district under authority of subsection (a), the state board shall include any moneys apportioned to the ancillary school facilities fund of the school district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

(c) The proceeds from any tax levied by a school district under authority of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(d) The ancillary school facilities weighting may be assigned to the enrollment of a school district only if the school district has levied a tax under the authority of subsection (a), and remitted the proceeds from such tax to the state treasurer. The ancillary school facilities weighting of each school district shall be determined in each school year in which such weighting may be assigned to the enrollment of the school district as follows:

(1) Add the amount to be produced by a tax levy as authorized under subsection (a) and certified to the state board by the state board of tax appeals to the amount computed under subsection (b) to be produced by a tax levy, if any; and

(2) divide the sum obtained under subsection (d)(1) by the BASE aid. The resulting quotient is the ancillary school facilities weighting of the school district.

(e) The provisions of this section apply to any school district that:

(1) Commenced operation of one or more new school facilities in the school year preceding the current school year or has commenced or will commence operation of one or more new school facilities in the current school year;

- (2) adopted a local option budget; and
- (3) is experiencing extraordinary enrollment growth as determined by the state board.

New Sec. 31. (a) Subject to subsection (b), the board of education of a school district may levy a tax on the taxable tangible property within the school district for the purpose of financing the costs incurred by the state that are attributable directly to assignment of the cost-of-living weighting to the enrollment of the school district.

(b) The state board shall determine whether a school district may levy a tax under this section as follows:

- (1) Determine the statewide average appraised value of single family residences for the calendar year preceding the current school year;
- (2) multiply the amount determined under subsection (b)(1) by 1.25;
- (3) determine the average appraised value of single family residences in each school district for the calendar year preceding the current school year; and

(4) subtract the amount determined under subsection (b)(2) from the amount determined under subsection (b)(3). If the amount determined for the school district is a positive number and the school district has adopted a local option budget in an amount equal to at least 31% of the total foundation aid for the school district, the school district qualifies for assignment of cost-of-living weighting and may levy a tax on the taxable tangible property of the school district for the purpose of financing the costs that are attributable directly to assignment of the cost-of-living weighting to the enrollment of the school district.

(c) (1) No tax may be levied under this section unless the board of education adopts a resolution authorizing such a tax levy and publishes the resolution at least once in a newspaper having general circulation in the school district. Except as provided by subsection (e), the resolution shall be published in substantial compliance with the following form:

Unified School District No. \_\_\_\_\_,  
 \_\_\_\_\_ County, Kansas.

**RESOLUTION**

Be It Resolved that:

The board of education of the above-named school district shall be authorized to levy an ad valorem tax in an amount not to exceed the amount necessary to finance the costs attributable directly to the assignment of cost-of-living weighting to the enrollment of the school district. The ad valorem tax authorized by this resolution may be levied unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after the publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether the levy of such a tax shall

be authorized in accordance with the provisions of this resolution to the electors of the school district at the next general election of the school district, as is specified by the board of education of the school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_ day of \_\_\_\_\_, (year)\_\_\_\_\_.

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

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

(d) There is hereby established in every school district a cost-of-living fund, which shall consist of all moneys deposited therein or transferred thereto in accordance with law. All moneys derived from a tax imposed pursuant to this section shall be credited to the cost-of-living fund. The proceeds from the tax levied by a school district credited to the cost-of-living fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(e) In determining the amount produced by the tax levied by the school district under the authority of this section, the state board shall include any moneys apportioned to the cost-of-living fund of the school district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

(f) The cost-of-living weighting of a school district shall be determined by the state board in each school year in which such weighting may be assigned to the enrollment of the school district as follows:

(1) Divide the amount determined under subsection (b)(4) by the amount determined under subsection (b)(2);

(2) multiply the quotient determined under subsection (f)(1) by 0.095;

(3) multiply the school district's total foundation aid for the current school year, excluding the amount determined under this provision, by the lesser of the product determined under subsection (f)(2) or 0.05; and

(4) divide the product determined under subsection (f)(3) by the BASE aid for the current school year. The quotient is the cost-of-living weighting of the school district.

New Sec. 32. (a) (1) (A) The board of education of a school district may levy an ad valorem tax on the taxable tangible property of the school district each year for a period of time not to exceed two years, unless authority to make such levy is renewed by the state board of tax appeals, in an amount not to exceed the amount authorized by the state board of tax appeals under this section for the purpose of financing the costs incurred by the state that are directly attributable to assignment of declining enrollment weighting to the enrollment of the school district. The state board of tax appeals may authorize the school district to make a levy that will produce an amount that is not greater than the amount of revenues lost as a result of the declining enrollment of the school district. Such amount shall not exceed 5% of the general fund budget of the school district in the school year in which the school district applies to the state board of tax appeals for authority to make a levy pursuant to this subsection. The state board of tax appeals may renew the authority to make such levy for periods of time not to exceed two years.

(B) For school year 2017-2018, as an alternative to the authority provided in subsection (a)(1)(A), if a school district was authorized to make a levy pursuant to K.S.A. 72-6451, prior to its repeal, in school year 2006-2007, such school district shall remain authorized to make a levy at a rate necessary to generate revenue equal to  $\frac{1}{2}$  of the amount that was generated in school year 2007-2008.

(2) The state board of tax appeals shall certify to the state board the amount authorized to be produced by the levy of a tax under this section.

(3) The state board shall prescribe guidelines for the data that school districts shall include in cases before the state board of tax appeals pursuant to this section. The state board shall provide to the state board of tax appeals such school data and information requested by the state board of tax appeals and any other information deemed necessary by the state board.

(b) There is hereby established in every school district a declining enrollment fund, which shall consist of all moneys deposited therein or transferred thereto according to law. The proceeds from the tax levied by a school district under authority of this section shall be credited to the declining enrollment fund of the school district. The proceeds from the tax levied by a school district credited to the declining enrollment fund



shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(c) In determining the amount produced by the tax levied by the school district under authority of this section, the state board shall include any moneys apportioned to the declining enrollment fund of the school district from taxes levied under the provisions of K.S.A. 79-5101 et seq. and 79-5118 et seq., and amendments thereto.

(d) The declining enrollment weighting of a school district shall be determined by the state board in each school year in which such weighting may be assigned to the enrollment of the school district. The state board shall divide the amount certified under subsection (a)(2) by the BASE aid. The resulting quotient is the declining enrollment weighting of the school district.

(e) As used in this section:

(1) “Declining enrollment” means an enrollment that has declined in amount from that of the second preceding school year.

(2) “School district” means a school district that: (A) Has a declining enrollment; and (B) has adopted a local foundation budget in an amount that equals at least 31% of the total foundation aid for the school district at the time the school district applies to the state board of tax appeals for authority to make a levy pursuant to this section.

(f) The provisions of this section shall expire on July 1, 2018.

New Sec. 33. For the purpose of determining the general fund budget of a school district, weightings shall not be assigned to a student enrolled in and attending KAMS. Moneys in the general fund that are attributable to a student enrolled in and attending KAMS shall not be included in the computation of the local option budget of the school district.

New Sec. 34. (a) There is hereby established in every school district a career and postsecondary education fund, which shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a school district for any course or program authorized and approved under the provisions of article 44 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, except for courses and programs conducted in an area vocational school, shall be credited to the career and postsecondary education fund. All moneys received by the school district from tuition, fees or charges or from any other source for career technical education courses or programs, except for courses and programs conducted in an area vocational school, shall be credited to the career and postsecondary education fund. All moneys received by the school district from tuition, fees or charges or from any other source for

postsecondary education courses or programs shall be credited to the career and postsecondary education fund.

(b) Expenditures made by a school district that are directly attributable to the following shall be paid from the career and postsecondary education fund:

- (1) Career technical education;
- (2) postsecondary education courses; and
- (3) courses provided through distance-learning technology.

(c) Any balance remaining in the career and postsecondary education fund at the end of the budget year shall be carried forward into the career and postsecondary education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the career and postsecondary education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district.

New Sec. 35. There is hereby established in every school district a driver training fund, which shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by the school district from distributions made from the state safety fund and the motorcycle safety fund and from tuition, fees or charges for driver training courses shall be credited to the driver training fund. The expenses of a school district directly attributable to driver training shall be paid from the driver training fund.

New Sec. 36. There is hereby established in every school district a food service fund, which shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by the school district for food service and from charges for food service shall be credited to the food service fund. The expenses of a school district attributable to food service shall be paid from the food service fund.

New Sec. 37. There is hereby established in every school district a contingency reserve fund, which shall consist of all moneys deposited therein or transferred thereto according to law. The fund shall be maintained for payment of expenses of a school district attributable to financial contingencies as determined by the board.

New Sec. 38. (a) Except as otherwise provided in this section, any revenues of a school district, not required by law to be deposited in or credited to a specific fund, shall be deposited in or credited to any categorical fund of the school district or to the capital outlay fund of the school district.

(b) At the discretion of the board of education of a school district, revenues earned from the investment of an activity fund of the school

district in accordance with the provisions of K.S.A. 12-1675, and amendments thereto, may be deposited in or credited to such activity fund.

(c) (1) At the discretion of the board and subject to subsection (c)(2), any revenues specified in subsections (a) and (b) may be deposited in or credited to the general fund of the school district in any school year for which the allotment system authorized under K.S.A. 75-3722, and amendments thereto, has been inaugurated and applied to appropriations made for state foundation aid, or in any school year for which any portion of the appropriations made for state foundation aid are lapsed by an act of the legislature.

(2) In no event may the amount of revenues deposited in or credited to the general fund of the school district under authority of subsection (c)(1) exceed an amount equal to the amount of the reduction in state foundation aid paid to the school district determined by the state board to be the result of application of the allotment system to the appropriations made for state foundation aid or of the lapse of any portion thereof by an act of the legislature.

(d) At the discretion of the board, revenues received by the school district from the federal government as the school district's share of the proceeds derived from sale by the federal government of its rights to oil, gas and other minerals located beneath the surface of lands within the school district's boundaries may be deposited in the bond and interest fund of the school district and used for the purposes of such fund. If at any time all indebtedness and obligations of such fund have been fully paid and canceled, the revenues authorized by this subsection to be deposited in such fund shall be disposed of as provided in subsection (a).

(e) To the extent that K.S.A. 72-1623, 72-8804 and 79-2958, and amendments thereto, conflict with this section, this section shall control.

New Sec. 39. (a) Any lawful transfer of moneys from the general fund of a school district to any other fund shall be an operating expense in the year the transfer is made. The board of education of a school district may transfer moneys from the general fund to any categorical fund of the school district in any school year.

(b) The board may transfer moneys from the general fund to the contingency reserve fund of the school district, subject to any limitations imposed upon the amount authorized to be maintained in the contingency reserve fund.

(c) The board may transfer moneys from the general fund to the:

- (1) Capital outlay fund;
- (2) special reserve fund;
- (3) special liability expense fund; and
- (4) textbook and student materials revolving fund.

(d) In each school year, the board may transfer to its general fund from any fund to which transfers from the general fund are authorized

an amount not to exceed an amount equal to the amount transferred from the general fund to any such fund in the same school year.

New Sec. 40. Expenditures of a school district for the following purposes are not operating expenses:

(a) Payments to another school district in an adjustment of rights as provided in K.S.A. 72-6776, and amendments thereto, or upon transfer of territory as provided in K.S.A. 72-7105, 72-7106 or 72-7107, and amendments thereto, if paid from any fund other than the general fund;

(b) payments to another school district under K.S.A. 72-7105a, and amendments thereto;

(c) the maintenance of student activities that are reimbursed;

(d) expenditures from any lawfully authorized fund of a school district other than its general fund;

(e) the provision of educational services for students residing at the Flint Hills job corps center, students housed at a psychiatric residential treatment facility or students confined in a juvenile detention facility for which the school district is reimbursed by a grant of state moneys as provided in K.S.A. 72-8187, and amendments thereto; and

(f) programs financed, in part or in whole, by federal funds that may be expended although not included in the budget of the school district, excluding funds received under the provisions of title I of public law 874, but not including in such exclusion amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program, to the extent of the federal funds to be provided.

New Sec. 41. If in any school year a school district expends an amount for operating expenses that exceeds its general fund budget, the state board shall determine the excess and deduct the same from amounts of state foundation aid payable to the school district during the next succeeding school year.

New Sec. 42. (a) In order to accomplish the mission for Kansas education, the state board shall design and adopt a school district accreditation system based upon improvement in performance that equals or exceeds the educational goal set forth in K.S.A. 2016 Supp. 72-1127(c), and amendments thereto, and is measurable. On or before January 15, 2018, and each January 15 thereafter, the state board shall prepare and submit a report on the school district accreditation system to the governor and the legislature.

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

(c) The state board shall provide for statewide assessments in the core

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

(d) Each school year, on such date as specified by the state board, each school district shall submit the Kansas education system accreditation report to the state board in such form and manner as prescribed by the state board.

(e) Whenever the state board determines that a school district has failed either to meet the accreditation requirements established by rules and regulations or standards adopted by the state board or provide curriculum based on state standards and courses required by state law, the state board shall so notify the school district. Such notice shall specify the accreditation requirements that the school district has failed to meet and the curriculum that it has failed to provide. Upon receipt of such notice, the board of education of such school district is encouraged to reallocate the resources of the school district to remedy all deficiencies identified by the state board.

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

New Sec. 43. (a) On or before January 15 of each year, the state department of education shall prepare and submit reports on school district funding for each school district to the governor and the legislature.

(b) Each report shall contain the information described in subsection (c) for the school district in terms of actual dollar amounts for the second

and immediately preceding school years and budgeted dollar amounts for the current school year.

(c) Each report shall contain the following information for the school district:

(1) Full-time equivalent enrollment;

(2) demographic information, including, but not limited to, gender, race, ethnicity, students who are economically disadvantaged, migrants, English language learners and students with disabilities;

(3) total general and supplemental general funds, including a showing of funding provided by federal sources, state sources and local sources, and total funds per student;

(4) total capital outlay funds, including a showing of such funding provided by federal sources, state sources and local sources, and capital outlay funds per student;

(5) total bond and interest funds, including a showing of such funding provided by federal sources, state sources and local sources, and bond and interest funds per student;

(6) total of all other funds not described in paragraphs (3), (4) and (5), excluding fund transfers, including a showing of such funding provided by federal sources, state sources and local sources, and total funds per student;

(7) total funds per student of all funds described in paragraphs (3) through (6);

(8) general fund moneys attributable to the following:

(A) BASE aid;

(B) high enrollment weighting;

(C) low enrollment weighting;

(D) school facilities weighting;

(E) transportation weighting;

(F) at-risk student weighting;

(G) preschool-aged at-risk student weighting;

(H) high-density at-risk student weighting;

(I) career technical education weighting;

(J) special education and related services weighting;

(K) bilingual weighting;

(L) ancillary school facilities weighting;

(M) cost-of-living weighting;

(N) declining enrollment weighting; and

(O) virtual school state aid;

(9) total expenditures on the following:

(A) At-risk education programs and services;

(B) preschool-aged at-risk education programs and services;

(C) bilingual education programs and services;

(D) career and technical education programs and services;

(E) special education and related services; and

(F) virtual school programs and services; and  
(10) total expenditures from the special retirement contributions fund.

(d) The state board shall provide uniform guidelines for what constitutes total expenditures for the programs and services listed under subsection (c)(9).

New Sec. 44. (a) On or before July 1, 2021, the legislature shall:

(1) Consider the information reviewed pursuant to subsection (b), and determine if any provisions of this act are not reasonably calculated to provide adequate educational opportunities to every K-12 public education student in Kansas.

(2) (A) Review the school year 2020-2021 BASE aid amount and evaluate whether such BASE aid amount is reasonably calculated to have all students meet or exceed the educational goal set forth in K.S.A. 2016 Supp. 72-1127(c), and amendments thereto.

(B) Such evaluation shall be based on a successful school model that identifies successful school districts based on the percentage of at-risk students in such districts in relation to the following outcomes:

(i) The percentage of students at grade level on state math and English/language arts assessments;

(ii) the percentage of students that are college and career ready on state math and English/language arts assessments;

(iii) the average composite ACT score; and

(iv) the four-year graduation rate.

(C) Such evaluation shall identify school districts that exceed expected outcomes and shall also identify school districts that have an average scaled difference on the outcome measures greater than or equal to one standard deviation from the average scaled difference of all districts. Those school districts that are identified as successful school districts in relation to other similarly situated districts may be used to evaluate whether the BASE aid amount is reasonably calculated to ensure that students will continue to meet or exceed the educational goal set forth in K.S.A. 2016 Supp. 72-1127(c), and amendments thereto.

(b) (1) On or before July 1, 2018, the house and senate standing committees on education shall review the low enrollment weighting and the high enrollment weighting, as such terms are defined in section 4, and amendments thereto, and alternatives to such weightings, including, but not limited to, a sparsity weighting. Such review shall be to ensure that the weightings are reasonably calculated to have students meet or exceed the educational goal set forth in K.S.A. 2016 Supp. 72-1127(c), and amendments thereto.

(2) On or before July 1, 2019, the house and senate standing committees on education shall review the following:

(A) Reports submitted to the legislature pursuant to sections 42, 43 and 49, and amendments thereto; and

(B) the legislative post audit reports conducted pursuant to section 45, and amendments thereto, that were completed prior to July 1, 2019.

(3) On or before July 1, 2020, the house and senate standing committees on education shall review virtual school programs and the virtual school state aid calculation as described in K.S.A. 2016 Supp. 72-3715, and amendments thereto.

(4) On or before July 1, 2021, the house and senate standing committees on education shall review the at-risk student weighting, as such term is defined in section 4, and amendments thereto, to ensure that such weighting is reasonably calculated to have students meet or exceed the educational goal set forth in K.S.A. 2016 Supp. 72-1127(c), and amendments thereto.

(5) On or before July 1, 2023, and on or before July 1, 2026, the house and senate standing committees on education shall review the successful school model described in this subsection (a) to review whether it is an effective model in determining successful schools and to ensure the BASE aid amount is reasonably calculated to meet or exceed the educational goal set forth in K.S.A. 2016 Supp. 72-1127(c), and amendments thereto.

(6) On or before July 1, 2024, the house and senate standing committees on education shall review the bilingual student weighting, as such term is defined in section 4, and amendments thereto, to ensure that such weighting is reasonably calculated to have students meet or exceed the educational goal set forth in K.S.A. 2016 Supp. 72-1127(c), and amendments thereto.

New Sec. 45. The legislative post audit committee shall direct the legislative division of post audit to conduct the following performance audits in the fiscal year specified:

(a) A performance audit of transportation services funding. The audit should include a comparison of the amount of transportation services funding school districts receive to the cost of providing transportation services. This performance audit shall be conducted during fiscal year 2018, and the final audit report shall be submitted to the legislature on or before January 15, 2018.

(b) A performance audit of at-risk education funding. The audit should evaluate the method of counting students for at-risk education funding, the level of the at-risk student weighting and high-density at-risk student weighting under the act and how school districts are expending moneys provided for at-risk education. This performance audit shall be conducted during fiscal year 2020, and the final audit report shall be submitted to the legislature on or before January 15, 2020.

(c) A performance audit of bilingual education funding. The audit



should evaluate the method of counting students for bilingual education funding, the level of the bilingual weighting under the act and how school districts are expending moneys provided for bilingual education. This performance audit shall be conducted during fiscal year 2023, and the final audit report shall be submitted to the legislature on or before January 15, 2023.

(d) A study of statewide virtual school programs administered in other states. The study shall include, but not be limited to, the following:

(1) The aggregate cost incurred by each state administering a virtual school program, and the cost incurred by individual school districts or schools within each state;

(2) the resources necessary for the implementation of each virtual school program, including, but not limited to, personnel, equipment, software and facility usage;

(3) the scope of each virtual school program; and

(4) the effectiveness of each virtual school program with respect to student performance and outcomes.

The audit shall be conducted during fiscal year 2024, and the final audit report shall be submitted to the legislature on or before January 15, 2024.

(e) (1) A performance audit to provide a reasonable estimate of the cost of providing educational opportunities for every public school student in Kansas to achieve the performance outcome standards adopted by the state board of education. This performance audit shall be conducted three times as follows:

(A) During fiscal year 2019, and the final report submitted to the legislature on or before January 15, 2019;

(B) during fiscal year 2022, and the final report submitted to the legislature on or before January 15, 2022; and

(C) during fiscal year 2025, and the final report submitted to the legislature on or before January 15, 2025.

(2) Each performance audit required under this subsection shall:

(A) Include reasonable estimates of the costs of providing specialized education services as required by law, including, but not limited to, special education and related services, bilingual education and at-risk programs; and

(B) account for other factors which may contribute to variations in costs incurred by school districts, including, but not limited to, total district enrollment and geographic location within the state.

(3) In conducting each performance audit required under this subsection:

(A) Any examination of historical data and expenditures shall correct any recognized inadequacy of such data or expenditure through a statistically valid method of extrapolation; and

(B) subject to the limitations of the division of legislative post audit

budget and appropriations therefor, the legislative post auditor may enter into contracts with consultants as the post auditor deems necessary.

(f) A performance audit to identify best practices in successful schools. The audit should include a comparison of the educational methods and other practices of demographically similar school districts that achieve significantly different student outcomes based on performance outcome standards adopted by the state board of education. This performance audit shall be conducted during fiscal year 2021, and the final audit report shall be submitted to the legislature on or before January 15, 2021. The audit shall be conducted a second time during fiscal year 2026, and the final audit report shall be submitted to the legislature on or before January 15, 2026.

New Sec. 46. The state board may adopt rules and regulations for the administration of this act, including the classification of expenditures of school districts to ensure uniform reporting of operating expenses.

New Sec. 47. The provisions of the Kansas school equity and enhancement act, section 3 et seq., and amendments thereto, shall not be severable. If any provision of the Kansas school equity and enhancement act, section 3 et seq., and amendments thereto, is held to be invalid or unconstitutional by court order, all provisions of the Kansas school equity and enhancement act, section 3 et seq., and amendments thereto, shall be null and void.

New Sec. 48. The Kansas school equity and enhancement act, sections 3 through 48, and amendments thereto, shall expire on July 1, 2027.

New Sec. 49. (a) The state department of education shall conduct a study of the cost of career technical education programs offered by school districts, including, but not limited to, the following:

- (1) The career technical education programs offered by school districts;
- (2) the costs associated with offering such programs, including salaries and wages, materials, equipment and facilities; and
- (3) the coordination between school districts, community colleges and technical colleges in offering such programs.

(b) On or before January 15, 2018, the state department of education shall prepare a report on its findings and shall make recommendations on amendments to the Kansas school equity and enhancement act, section 3 et seq., and amendments thereto, for the financing of career technical education programs using a tiered technical education model or other funding model. The report shall be submitted to the governor and the legislature.

(c) The provisions of this section shall expire on July 1, 2018.

New Sec. 50. (a) There is hereby established in the state treasury the school district capital outlay state aid fund. Such fund shall consist of all moneys transferred thereto under the provisions of subsection (d).

(b) Each school district that levies a tax pursuant to K.S.A. 72-8801 et seq., and amendments thereto, shall receive payment from the school district capital outlay state aid fund in an amount determined by the state board of education as provided in this section.

(c) The state board shall:

(1) Determine the amount of the assessed valuation per student of each school district in the state for the preceding school year and round such amount to the nearest \$1,000. The rounded amount is the assessed valuation per student of a school district for the purposes of this subsection;

(2) determine the median assessed valuation per student of all school districts;

(3) prepare a schedule of dollar amounts using the amount of the median assessed valuation per student of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the assessed valuation per student of the school district with the highest assessed valuation per student of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the assessed valuation per student of the school district with the lowest assessed valuation per student of all school districts;

(4) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median assessed valuation per student shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median assessed valuation per student by one percentage point for each \$1,000 interval above the amount of the median assessed valuation per student, and increasing the state aid computation percentage assigned to the amount of the median assessed valuation per student by one percentage point for each \$1,000 interval below the amount of the median assessed valuation per student. The state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the assessed valuation per student of the school district, except that the state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;

(5) determine the amount levied by each school district pursuant to K.S.A. 72-8801 et seq., and amendments thereto; and

(6) multiply the amount computed under subsection (c)(5), but not to exceed eight mills, by the applicable state aid percentage factor. The resulting product is the amount of payment the school district is to receive from the school district capital outlay state aid fund in the school year.

(d) The state board shall certify to the director of accounts and reports the amount of school district capital outlay state aid determined under the provisions of subsection (c), and an amount equal thereto shall

be transferred by the director from the state general fund to the school district capital outlay state aid fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund.

(e) Payments from the school district capital outlay state aid fund shall be distributed to school districts at times determined by the state board of education. The state board of education shall certify to the director of accounts and reports the amount due each school district, and the director of accounts and reports shall draw a warrant on the state treasury payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the capital outlay fund of the school district to be used for the purposes of such fund.

New Sec. 51. (a) Each school district may submit an application to the state board of education for approval of extraordinary declining enrollment state aid. Such application shall be submitted in such form and manner as prescribed by the state board, and shall include a description of the extraordinary decline in enrollment of the school district that is the basis for the application.

(b) The state board shall review all submitted applications and approve or deny any such application based on whether the applicant school district has demonstrated extraordinary declining enrollment since school year 2014-2015. As part of its review of an application, the state board may conduct a hearing and provide the applicant school district an opportunity to present testimony as to such school district's extraordinary declining enrollment. In reviewing the application, the state board shall consider the decrease in enrollment of the school district since school year 2014-2015.

(c) If the state board approves an application, it shall determine the amount of extraordinary declining enrollment state aid to be disbursed to the applicant school district from the school district extraordinary declining enrollment fund. In approving any application for extraordinary declining enrollment state aid, the state board may approve an amount of extraordinary declining enrollment state aid that is less than the amount the school district requested in the application. If the state board denies an application, then, within 15 days of such denial, the state board shall send written notice of such denial to the superintendent of such school district. All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any action by the state board pursuant to this section shall be subject to review in accordance with the Kansas judicial review act.

(d) There is hereby established in the state treasury the school district extraordinary declining enrollment fund, which shall be administered by the state department of education. All expenditures from the school dis-

district extraordinary declining enrollment fund shall be used for the disbursement of extraordinary declining enrollment state aid as approved by the state board under this section. All expenditures from the school district extraordinary declining enrollment fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board of education, or the designee of the state board of education.

(e) The provisions of this section shall expire on July 1, 2018.

New Sec. 52. No ad valorem tax exemption for real or personal property granted after the effective date of this act by the board of tax appeals pursuant to the provisions of either: (a) Section 13 of article 11 of the constitution of the state of Kansas; or (b) K.S.A. 12-1740 et seq. and 79-201a *Second* or *Twenty-Fourth*, and amendments thereto, for any property purchased with the proceeds of revenue bonds shall be deemed to exempt any such property from the ad valorem property tax levied by a school district pursuant to the provisions of K.S.A. 72-8801, and amendments thereto. The provisions of this section shall not apply to exemptions granted by the board of tax appeals when the associated resolution of intent, letter of intent or inducement resolution to issue revenue bonds and grant property tax abatement was approved by any governing body of any city or the board of commissioners of any county or the public hearing required by K.S.A. 79-251, and amendments thereto, was conducted prior to May 1, 2017.

Sec. 53. K.S.A. 2016 Supp. 10-1116a is hereby amended to read as follows: 10-1116a. The limitations on expenditures imposed under the cash-basis law shall not apply to:

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

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

(b) Expenditures in any month by school districts which are in excess of current revenues if the deficit or shortage in revenues is caused by, or a result of, the payment of state aid after the date prescribed for the payment of state aid during such month under ~~K.S.A. 2016 Supp. 72-6466~~ *section 7*, and amendments thereto.

Sec. 54. K.S.A. 2016 Supp. 12-1677 is hereby amended to read as follows: 12-1677. (a) Except as otherwise required by state or federal law, all moneys earned and collected from investments by counties, area vocational-technical schools and quasi-municipal corporations authorized in this act shall be credited to the general fund of such county, area vocational-technical school or quasi-municipal corporation by the treasurer thereof, and all moneys earned and collected from investments by school districts authorized in this act shall be credited ~~to the general fund of the school district~~ *in accordance with the provisions of section 38, and amendments thereto.*

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

Sec. 55. K.S.A. 2016 Supp. 12-1742 is hereby amended to read as follows: 12-1742. Such agreements shall provide for a rental sufficient to repay the principal of and the interest on the revenue bonds. Such agreements also may provide that the lessee shall reimburse the city or county for its actual costs of administering and supervising the issue. The city or county may charge an origination fee. Such fee shall not be deemed a payment in lieu of taxes hereunder. Such fee shall be used exclusively for local economic development activities but shall not be used to pay any administrative costs of the city or county. Except for the origination fee, all other fees paid in excess of such actual costs and any other obligation assumed under the contract shall be deemed payments in lieu of taxes and distributed as provided herein. If the agreement provides for a payment in lieu of taxes to the city or county, such payment, immediately upon receipt of same, shall be transmitted by the city or county to the county treasurer of the county in which the city is located. Payments in lieu of taxes received pursuant to agreements entered into after the effective date of this act shall include all fees or charges paid for services normally and customarily paid from the proceeds of general property tax levies, except for extraordinary services provided for the facility or an extraordinary level of services required by a facility. Payments in lieu of taxes may be required only upon property for which an exemption from ad valorem property taxes has been granted by the state board of tax

appeals. The county treasurer shall apportion such payment among the taxing subdivisions of this state in the territory in which the facility is located. Any payment in lieu of taxes shall be divided by the county treasurer among such taxing subdivisions in the same proportion that the amount of the total mill levy of each individual taxing subdivision bears to the aggregate of such levies of all the taxing subdivisions among which the division is to be made. *For purposes of this section, the total mill levy shall not include the mill levy imposed pursuant to K.S.A. 72-8801, and amendments thereto.* The county treasurer shall pay such amounts to the taxing subdivisions at the same time or times as their regular operating tax rate mill levy is paid to them. Based upon the assessed valuation which such facility would have if it were upon the tax rolls of the county, the county clerk shall compute the total of the property taxes which would be levied upon such facility by all taxing subdivisions within which the facility is located if such property were taxable.

Sec. 56. K.S.A. 2016 Supp. 12-1770a is hereby amended to read as follows: 12-1770a. As used in this act, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

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

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

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

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

- (A) A substantial number of deteriorated or deteriorating structures;
- (B) predominance of defective or inadequate street layout;
- (C) unsanitary or unsafe conditions;
- (D) deterioration of site improvements;
- (E) tax or special assessment delinquency exceeding the fair market value of the real property;
- (F) defective or unusual conditions of title including, but not limited to, cloudy or defective titles, multiple or unknown ownership interests to the property;

- (G) improper subdivision or obsolete platting or land uses;
- (H) the existence of conditions which endanger life or property by fire or other causes; or
- (I) conditions which create economic obsolescence;
- (2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action;
- (3) a majority of the property is a 100-year floodplain area; or
- (4) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 et seq., and amendments thereto.

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

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

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

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

(g) "Eligible area" means a blighted area, conservation area, enterprise zone, intermodal transportation area, major tourism area or a major commercial entertainment and tourism area, bioscience development area or a building or buildings which are 65 years of age or older and any contiguous vacant or condemned lots.

(h) "Enterprise zone" means an area within a city that was designated as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and amendments thereto, prior to its repeal and the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of such city.

(i) "Environmental increment" means the increment determined pursuant to K.S.A. 12-1771a(b), and amendments thereto.

(j) "Environmentally contaminated area" means an area of land having contaminated groundwater or soil which is deemed environmentally



contaminated by the department of health and environment or the United States environmental protection agency.

(k) (1) “Feasibility study” means:

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

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

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

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

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

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

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

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

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

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

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

(m) “Real property taxes” means all taxes levied on an ad valorem basis upon land and improvements thereon, except that ~~when relating to a bioscience development district, as defined in this section,~~ “real property taxes” does not include:

(1) ~~Property taxes levied for schools, by school districts pursuant to K.S.A. 2016 Supp. 72-6470 section 14, and amendments thereto, when relating to a bioscience development district; and~~

(2) *property taxes levied by school districts pursuant to K.S.A. 72-8801, and amendments thereto, when relating to a bioscience development district or a redevelopment district established on or after July 1, 2017.*

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

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

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

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

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

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

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

(ii) salaries for local government employees;

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

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

(v) lobbying costs;

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

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

(viii) travel, entertainment and hospitality.

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

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

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

(s) “Redevelopment project plan” means the plan adopted by a municipality for the development of a redevelopment project or projects

which conforms with K.S.A. 12-1772, and amendments thereto, in a redevelopment district.

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

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

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

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

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

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

(z) “Bioscience” means the use of compositions, methods and organisms in cellular and molecular research, development and manufacturing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial environmental and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.

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

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

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

(3) includes a bioscience facility.

(bb) “Bioscience development district” means the specific area, created under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.

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

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

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

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

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

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

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

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

(kk) “Taxpayer” means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto.

(ll) “Floodplain increment” means the increment determined pursuant to K.S.A. 2016 Supp. 12-1771e(b), and amendments thereto.

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

(nn) “Major motorsports complex” means a complex in Shawnee county that is utilized for the hosting of competitions involving motor vehicles, including, but not limited to, automobiles, motorcycles or other self-propelled vehicles other than a motorized bicycle or motorized wheelchair. Such project may include racetracks, all facilities directly related and necessary to the operation of a motorsports complex, including, but not limited to, parking lots, grandstands, suites and viewing areas,

concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding hotels, motels, restaurants and retail facilities not directly related to or necessary to the operation of such facility.

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

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

Sec. 57. K.S.A. 2016 Supp. 12-1775a is hereby amended to read as follows: 12-1775a. (a) Prior to December 31, 1996, the governing body of each city which, pursuant to K.S.A. 12-1771, and amendments thereto, has established a redevelopment district prior to July 1, 1996, shall certify to the director of accounts and reports the amount equal to the amount of revenue realized from ad valorem taxes imposed pursuant to ~~K.S.A. 2016 Supp. 72-6470~~ *section 14*, and amendments thereto, within such redevelopment district. Prior to February 1, 1997, and annually on that date thereafter, the governing body of each such city shall certify to the director of accounts and reports an amount equal to the amount by which revenues realized from such ad valorem taxes imposed in such redevelopment district are estimated to be reduced for the ensuing calendar year due to legislative changes in the statewide school finance formula. Prior to March 1 of each year, the director of accounts and reports shall certify to the state treasurer each amount certified by the governing bodies of cities under this section for the ensuing calendar year and shall transfer from the state general fund to the city tax increment financing revenue fund the aggregate of all amounts so certified. Prior to April 15 of each year, the state treasurer shall pay from the city tax increment financing revenue fund to each city certifying an amount to the director of accounts and reports under this section for the ensuing calendar year the amount so certified.

(b) There is hereby created the tax increment financing revenue replacement fund which shall be administered by the state treasurer. All expenditures from the tax increment financing revenue replacement fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved

by the state treasurer or a person or persons designated by the state treasurer.

Sec. 58. K.S.A. 2016 Supp. 12-1776a is hereby amended to read as follows: 12-1776a. (a) As used in this section:

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

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

(b) No later than November 1 of each year, the county clerk of each county shall certify to the state board of education the assessed valuation of any school district located within a redevelopment district in such county. For the purposes of this section and for determining the amount of state aid for school districts under *section 17 and* K.S.A. 75-2319, and amendments thereto, the base year assessed valuation of property within the boundaries of a redevelopment district shall be used when determining the assessed valuation of a school district until the bonds issued pursuant to K.S.A. 12-1770 et seq., and amendments thereto, to finance redevelopment projects in the redevelopment district have been retired.

Sec. 59. K.S.A. 12-17,115 is hereby amended to read as follows: 12-17,115. As used in this act:

(a) “Dilapidated structure” means a residence or other building which is in deteriorating condition by reason of obsolescence, inadequate provision of ventilation, light, air or structural integrity or is otherwise in a condition detrimental to the health, safety or welfare of its inhabitants or a residence or other building which is in deteriorating condition and because of age, architecture, history or significance is worthy of preservation.

(b) “Municipality” means any municipality as defined by K.S.A. 10-1101, and amendments thereto.

(c) “Neighborhood revitalization area” means:

(1) An area in which there is a predominance of buildings or improvements which by reason of dilapidation, deterioration, obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, the existence of conditions which endanger life or property by fire and other causes or a combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and which is detrimental to the public health, safety or welfare;

(2) an area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, defective or inadequate streets, incompatible land use relationships, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe condi-

tions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the actual value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or a combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is detrimental to the public health, safety or welfare in its present condition and use; or

(3) an area in which there is a predominance of buildings or improvements which by reason of age, history, architecture or significance should be preserved or restored to productive use.

(d) "Governing body" means the governing body of any municipality.

(e) "Increment" means, *except for any taxes levied by school districts pursuant to K.S.A. 72-8801, and amendments thereto*, that amount of ad valorem taxes collected from real property located within the neighborhood revitalization area or from dilapidated structures outside the revitalization area that is in excess of the amount which is produced from such property and attributable to the assessed valuation of such property prior to the date the neighborhood revitalization area was established or the structure was declared dilapidated pursuant to this act.

Sec. 60. K.S.A. 2016 Supp. 72-978 is hereby amended to read as follows: 72-978. (a) Each year, the state board of education shall determine the amount of state aid for the provision of special education and related services each school district shall receive for the ensuing school year. The amount of such state aid shall be computed by the state board as provided in this section. The state board shall:

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

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

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

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

(5) multiply the amount of the quotient obtained in subsection (a)(3) by the full-time equivalent enrollment determined in subsection (a)(4);



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

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

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

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

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

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

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

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

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

(2) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services;

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

(4) (A) ~~except for those school districts entitled to~~ *that* receive reimbursement under subsection (c) or (d), after subtracting the amounts of reimbursement under subsections (a)(1), (a)(2) and (a)(3) from the total amount appropriated for special education and related services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

(B) Each special teacher who is qualified to assist in the provision of

special education or related services to exceptional children shall be counted as  $\frac{2}{3}$  full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

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

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

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

(e) No time spent by a special teacher in connection with duties performed under a contract entered into by the Kansas juvenile correctional complex, ~~the Atchison juvenile correctional facility,~~ the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of special education services by such state institution shall be counted in making computations under this section.

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

and amendments thereto, and amounts of grants, if any, received by a school district under K.S.A. 72-983, and amendments thereto, shall be deposited in the general fund of the district and transferred to the special education fund; and (2) moneys received by a school district pursuant to lawful agreements made under K.S.A. 72-968, and amendments thereto, shall be credited to the special education fund established under the agreements.

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

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

Sec. 61. K.S.A. 2016 Supp. 72-1046b is hereby amended to read as follows: 72-1046b. (a) As used in this section:

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

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

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

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

(c) Pupils attending school in a school district in which the pupil does not reside pursuant to this section shall be counted as regularly enrolled in and attending school in the district where the pupil is enrolled for the purpose of computations under the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463 et seq.~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto, *except com-*

*putation of transportation weighting under such act*, and for the purposes of the statutory provisions contained in article 83 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto. Such non-resident pupil shall not be charged for the costs of attendance at school.

~~(d) Any pupil who was not a resident of the district in school year 2014-2015, but was allowed to enroll in and attend school in such district in school year 2014-2015 by the board of education of such district and any member of the family of such pupil regardless of whether such family member enrolled in and attended school in such district in school year 2014-2015, shall be allowed to enroll in and attend school in such district in school years 2015-2016 and 2016-2017 regardless of whether such pupil or family member of such pupil is a resident of the district in either school year, provided such pupil or such pupil's family member is in compliance with any attendance and behavior policies of the district. If transportation was furnished or provided to such pupil in school year 2014-2015 by the district, then transportation shall be furnished or provided by the district to such pupil and any family member of such pupil in school years 2015-2016 and 2016-2017, provided there is no change in such pupil's residence and no requirement for the district to furnish transportation to any additional residence.~~

Sec. 62. K.S.A. 2016 Supp. 72-1398 is hereby amended to read as follows: 72-1398. (a) The national board for professional teaching standards certification incentive program is hereby established for the purpose of rewarding teachers who have attained certification from the national board. Teachers who have attained certification from the national board shall be issued a master teacher's license by the state board of education. A master teacher's license shall be valid for 10 years and renewable thereafter every 10 years through compliance with continuing education and professional development requirements prescribed by the state board. Teachers who have attained certification from the national board and who are employed by a school district shall be paid an incentive bonus in the amount of \$1,000 each school year that the teacher remains employed by a school district and retains a valid master teacher's license.

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

(c) In each school year, each school district employing one or more

national board certified teachers is entitled to receive from appropriations for the national board for professional teaching standards certification incentive program an amount which is equal to the amount certified to the state board of education in accordance with the provisions of subsection (b). The state board shall certify to the director of accounts and reports the amount due each school district. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district entitled to payment under this section upon vouchers approved by the state board.

(d) Moneys received by a board of education under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3* et seq., and amendments thereto, and may be expended whether the same have been budgeted or not.

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

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

Sec. 63. K.S.A. 2016 Supp. 72-1414 is hereby amended to read as follows: 72-1414. (a) On or before January 1, 2001, the state board of education shall adopt rules and regulations for the administration of mentor teacher programs and shall:

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

a grant for maintenance of a mentor teacher program reports containing information with regard to the effectiveness of the program.

(b) Subject to the availability of appropriations for mentor teacher programs maintained by school districts, and within the limits of any such appropriations, the state board of education shall determine the amount of grants to be awarded school districts by multiplying an amount not to exceed \$1,000 by the number of mentor teachers participating in the program maintained by a school district. The product is the amount of the grant to be awarded to the district. Upon receipt of a grant of state moneys for maintenance of a mentor teacher program, the amount of the grant shall be deposited in the general fund of the school district. Moneys deposited in the general fund of a school district under this subsection shall be considered reimbursements for the purpose of the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto. The full amount of the grant shall be allocated among the mentor teachers employed by the school district so as to provide a mentor teacher with an annual stipend in an amount not to exceed \$1,000. Such annual stipend shall be over and above the regular salary to which the mentor teacher is entitled for the school year.

Sec. 64. K.S.A. 2016 Supp. 72-1923 is hereby amended to read as follows: 72-1923. (a) Except as provided in K.S.A. 2016 Supp. 72-1925, and amendments thereto, the board of education of any school district may apply to the state board for a grant of authority to operate such school district as a public innovative district. The application shall be submitted in the form and manner prescribed by the state board, and shall be submitted not later than December 1 of the school year preceding the school year in which the school district intends to operate as a public innovative district.

(b) The application shall include the following:

(1) A description of the educational programs of the public innovative district;

(2) a description of the interest and support for partnerships between the public innovative district, parents and the community;

(3) the specific goals and the measurable pupil outcomes to be obtained by operating as a public innovative district; and

(4) an explanation of how pupil performance in achieving the specified outcomes will be measured, evaluated and reported.

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

novative district. Notification of such approval shall be sent to the board of education of such school district within 10 days after such decision.

(2) If the state board determines such application is not in compliance with either this section, or K.S.A. 2016 Supp. 72-1925, and amendments thereto, the state board shall deny such application. Notification of such denial shall be sent to the board of education of such school district within 10 days after such decision and shall specify the reasons therefor. Within 30 days from the date such notification is sent, the board of education of such school district may submit a request to the state board for reconsideration of the application and may submit an amended application with such request. The state board shall act on the request for reconsideration within 60 days of receipt of such request.

(d) A public innovative district shall:

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

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

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

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

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

(e) (1) Except as otherwise provided in K.S.A. 2016 Supp. 72-1921 through 72-1930, and amendments thereto, or as required by the board of education of the public innovative district, a public innovative district shall be exempt from all laws and rules and regulations that are applicable to school districts.

(2) A public innovative district shall be subject to the special education for exceptional children act, the virtual school act, the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto, the provisions of K.S.A. 72-8801 et seq., and amendments thereto, all laws governing the issuance of general obligation bonds by school districts, the provisions of K.S.A. 74-4901 et seq., and amendments thereto, and all laws governing the election of members of the board of education, the open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto, and the open records act as provided in K.S.A. 45-215 et seq., and amendments thereto.

Sec. 65. K.S.A. 2016 Supp. 72-3712 is hereby amended to read as follows: 72-3712. As used in the virtual school act:

(a) “Virtual school” means any school or educational program that:

(1) Is offered for credit; (2) uses distance-learning technologies which

predominately use internet-based methods to deliver instruction; (3) involves instruction that occurs asynchronously with the teacher and ~~pupil student~~ in separate locations; (4) requires the ~~pupil student~~ to make academic progress toward the next grade level and matriculation from kindergarten through high school graduation; (5) requires the ~~pupil student~~ to demonstrate competence in subject matter for each class or subject in which the ~~pupil student~~ is enrolled as part of the virtual school; and (6) requires age-appropriate ~~pupils students~~ to complete state assessment tests.

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

(c) Except as provided by the virtual school act, words and phrases shall have the meanings ascribed thereto in ~~K.S.A. 2016 Supp. 72-6464 section 4~~, and amendments thereto.

Sec. 66. K.S.A. 2016 Supp. 72-3715 is hereby amended to read as follows: 72-3715. (a) In order to be included in the full-time equivalent enrollment of a virtual school, a ~~pupil student~~ shall be in attendance at the virtual school on: (1) A single school day on or before September 19 of each school year; and (2) on a single school day on or after September 20, but before October 4 of each school year.

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

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

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

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

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

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

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



education shall determine the amount of virtual school state aid a school district is to receive as follows:

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

~~(A) Determine the number of pupils students enrolled in virtual school on a full-time basis, excluding those pupils students who are over 18 19 years of age, and multiply the total number of such pupils students by \$5,000;~~

~~(B) (2) determine the full-time equivalent enrollment of pupils students enrolled in virtual school on a part-time basis, excluding those pupils who are over 18 19 years of age, and multiply the total full-time equivalent enrollment of such pupils by \$4,045 students by \$1,700;~~

~~(C) (3) for pupils students enrolled in a virtual school who are over 18 19 years of age, determine the number of one-hour credit courses such pupils students have passed, not to exceed six credit courses per school year, and multiply the total number of such courses by \$933 \$709; and~~

~~(D) (4) add the amounts calculated under subsections (d)(1)(A) through (d)(1)(C) (4). The resulting sum is the amount of virtual school state aid the school district shall receive.~~

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

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

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

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

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

~~(3) For purposes of this subsection:~~

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

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

(e) (1) There is hereby established in every school district a fund which shall be called the virtual school fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a school district directly attributable to virtual schools offered by a school district may be paid from the virtual school fund. The cost of an advance placement course provided to a pupil student by a virtual school shall be paid by the virtual school. Amounts deposited in the virtual school fund may be transferred to the general fund of the school district

~~as approved by the board of education~~ *Moneys deposited in or otherwise transferred to the virtual school fund shall only be expended for those costs directly attributable to the provision of virtual instruction.*

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

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

(f) For the purposes of this section, a ~~pupil~~ *student* enrolled in a virtual school who is not a resident of the state of Kansas shall not be counted in the full-time equivalent enrollment of the virtual school. The virtual school shall record the permanent address of any ~~pupil~~ *student* enrolled in such virtual school.

(g) *For purposes of this section:*

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

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

Sec. 67. K.S.A. 2016 Supp. 72-5333b is hereby amended to read as follows: 72-5333b. (a) The unified school district maintaining and operating a school on the Fort Leavenworth military reservation, being unified school district No. 207 of Leavenworth county, state of Kansas, shall have a governing body, which shall be known as the “Fort Leavenworth school district board of education” and which shall consist of three members who shall be appointed by, and serve at the pleasure of the commanding general of Fort Leavenworth. One member of the board shall be the president and one member shall be the vice-president. The commanding general, when making any appointment to the board, shall designate which of the offices the member so appointed shall hold. Except as otherwise expressly provided in this section, the district board and the officers thereof shall have and may exercise all the powers, duties, authority and jurisdiction imposed or conferred by law on unified school districts and boards of education thereof, except such school district shall not offer or operate any of grades 10 through 12.

(b) The board of education of the school district shall not have the power to issue bonds.

(c) Except as otherwise expressly provided in this subsection, the provisions of the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3* et seq., and amendments thereto, apply to the school district. *As applied to*

*the school district, the terms “local foundation aid” and “federal impact aid” shall not include any moneys received by the school district under subsection (3)(d)(2)(b) of public law 81-874. Any such moneys received by the school district shall be deposited in the general fund of the school district or, at the discretion of the board of education, in the capital outlay fund of the school district.*

Sec. 68. K.S.A. 2016 Supp. 72-64b01 is hereby amended to read as follows: 72-64b01. (a) No school district shall expend, use or transfer any moneys from the general fund of the district for the purpose of engaging in or supporting in any manner any litigation by the school district or any person, association, corporation or other entity against the state of Kansas, the state board of education, the state department of education, other state agency or any state officer or employee regarding *the Kansas school equity and enhancement act* or any other law concerning school finance. No such moneys shall be paid, donated or otherwise provided to any person, association, corporation or other entity and used for the purpose of any such litigation.

(b) Nothing in *section 15, and amendments thereto*, or this section shall be construed as prohibiting the expenditure, use or transfer of moneys from *that portion of the proceeds of any tax levied by a school district pursuant to ~~K.S.A. 2016 Supp. 72-6472~~ section 19*, and amendments thereto, *that was levied to finance a school district’s local option budget*, for the purposes specified in subsection (a).

Sec. 69. K.S.A. 2016 Supp. 72-64c03 is hereby amended to read as follows: 72-64c03. The appropriation of moneys necessary to pay general state aid and supplemental general state aid under the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto, and state aid for the provision of special education and related services under the special education for exceptional children act shall be given first priority in the legislative budgeting process and shall be paid first from existing state revenues.

Sec. 70. K.S.A. 2016 Supp. 72-64c05 is hereby amended to read as follows: 72-64c05. Article 6 of the constitution of the state of Kansas states that the legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools; provide for a state board of education having general supervision of public schools, educational institutions and the educational interests of the state, except those delegated by law to the state board of regents; and make suitable provision for finance of the educational interests of the state. It is the purpose and intention of the legislature to provide a financing system for the education of kindergarten and grades one through 12 which provides students with the capacities set forth in K.S.A. 2016 Supp. 72-1127, and amendments thereto. Such financing system shall be

sufficiently flexible for the legislature to consider and utilize financing methods from all available resources in order to satisfy the constitutional requirements under article 6. Such financing methods shall include, but are not limited to, the following:

(a) Federal funding to unified school districts or public schools, including any grants or federal assistance;

(b) subject to appropriations by the legislature, appropriations of state moneys for the improvement of public education, including, but not limited to, the following:

(1) Financing to unified school districts through the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto;

(2) financing to unified school districts through any provisions which provide state aid, such as capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts;

(3) employer contributions to the Kansas public employees retirement system for public schools;

(4) appropriations to the Kansas children's cabinet for programs serving students enrolled in unified school districts in meeting the goal specified in K.S.A. 2016 Supp. 72-1127, and amendments thereto;

(5) appropriations to any programs which provide early learning to four-year-old children with the purpose of preparing them for success in public schools;

(6) appropriations to any programs, such as communities in schools, which provide individualized support to students enrolled in unified school districts in meeting the goal specified in K.S.A. 2016 Supp. 72-1127, and amendments thereto;

(7) transportation financing, including any transfers from the state general fund and state highway fund to the state department of education to provide technical education transportation, special education transportation or school bus safety;

(8) financing to other facilities providing public education to students, such as the Kansas state school for the blind, the Kansas state school for the deaf, school district juvenile detention facilities and the Flint Hills job corps center;

(9) appropriations relating to the Kansas academy of mathematics and science;

(10) appropriations relating to teaching excellence, such as scholarships, awards, training or in-service workshops;

(11) appropriations to the state board of regents to provide technical education incentives to unified school districts and tuition costs to postsecondary institutions which provide career technical education to secondary students; and

(12) appropriations to any postsecondary educational institution

which provides postsecondary education to a secondary student without charging tuition to such student;

(c) any provision which authorizes the levying of local taxes for the purpose of financing public schools; and

(d) any transfer of funds or appropriations from one object or fund to another approved by the legislature for the purpose of financing public schools.

Sec. 71. K.S.A. 2016 Supp. 72-6622 is hereby amended to read as follows: 72-6622. In the event that all of the property acquired by any two cities under the provisions of K.S.A. 3-404 et seq., and amendments thereto, is included within the territory of a unified school district in which only one of such cities is located:

(a) One-half of the assessed valuation of such property shall be assigned to each of the two school districts in which such cities are located for the purposes of determining the assessed valuation of each district for ~~entitlement to~~; (1) *Supplemental state aid under section 17, and amendments thereto*; and (2) payment from the school district capital improvements fund *under K.S.A. 75-2319, and amendments thereto*;

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

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

Sec. 72. K.S.A. 2016 Supp. 72-6624 is hereby amended to read as follows: 72-6624. (a) As used in this section:

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

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

(3) "State aid" means general state aid, *supplemental state aid*, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the ~~classroom learning assuring student success act~~, *K.S.A. 2016 Supp. 72-6463 Kansas school equity and enhancement act*, section 3 et seq., and amendments thereto, or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

(b) For the purposes of computing the assessed valuation of school districts for the payment, distribution or allocation of state aid and the

levying of school taxes,  $\frac{1}{4}$  of the assessed valuation of such property shall be assigned to each of the school districts.

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

Sec. 73. K.S.A. 2016 Supp. 72-6625 is hereby amended to read as follows: 72-6625. (a) As used in this section:

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

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

(3) "State aid" means general state aid, *supplemental state aid*, capital improvements state aid, capital outlay state aid and any other state aid paid, distributed or allocated to school districts under the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto, or other law, and any other state aid paid, distributed or allocated to school districts on the basis of the assessed valuation of school districts.

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

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

Sec. 74. K.S.A. 2016 Supp. 72-6757 is hereby amended to read as follows: 72-6757. (a) As used in this section:

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

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

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

(c) The board of education of any school district may make and enter into contracts with the governing authority of any accredited school district located in another state for the purpose of providing for the attendance of pupils from this state at school in such other state or for the attendance of pupils from such other state at school in this state.

(d) Pupils attending school in a receiving school district in accordance with a contract authorized by this section and made and entered into by

such receiving school district with a sending school district located in this state shall be counted as regularly enrolled in and attending school in the sending school district for the purpose of computations under the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3* et seq., and amendments thereto.

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

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

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

(3) if a sending school district is located in this state and the receiving school district is located in another state, the amount of tuition provided to be paid for the attendance of a pupil or pupils at school in the receiving school district shall not exceed  $\frac{1}{2}$  of the amount of the budget per pupil of the sending school district under the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3* et seq., and amendments thereto, for the current school year; and

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

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

(g) The provisions of subsection (e)(3) do not apply to unified school district No. ~~104, Jewell county~~ 107, *Rock Hills*.

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

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

Sec. 75. K.S.A. 2016 Supp. 72-67,115 is hereby amended to read as follows: 72-67,115. (a) The board of education of any school district may:

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

(2) Enter into cooperative or interlocal agreements with one or more

other boards for the establishment, operation and maintenance of such preschool programs.

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

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

(b) Fees for providing preschool programs shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the preschool programs. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto, and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.

Sec. 76. K.S.A. 2016 Supp. 72-7535 is hereby amended to read as follows: 72-7535. (a) In order to equip students with the knowledge and skills needed to become self-supporting and to enable students to make critical decisions regarding personal finances, the state board of education shall authorize and assist in the implementation of programs on teaching personal financial literacy.

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

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

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

(e) The state board of education shall include questions relating to personal financial literacy in the statewide assessments for mathematics or social studies required under ~~K.S.A. 2016 Supp. 72-6479~~ *section 42,*



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

Sec. 77. K.S.A. 2016 Supp. 72-8187 is hereby amended to read as follows: 72-8187. (a) In each school year, to the extent that appropriations are available, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility is eligible to receive a grant of state moneys in an amount to be determined by the state board of education.

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

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

(d) All moneys received by a school district under authority of this section shall be deposited in the general fund of the school district and shall be considered reimbursement of the district for the purpose of the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto.

(e) The state board of education shall approve applications of school districts for grants, determine the amount of grants and be responsible for payment of grants to school districts. In determining the amount of a grant which a school district is eligible to receive, the state board shall compute the amount of state financial aid the district would have received on the basis of enrollment of pupils residing at the Flint Hills job corps center, housed at a psychiatric residential treatment facility or confined in a juvenile detention facility if such pupils had been counted as two pupils under the school district finance and quality performance act and

compare such computed amount to the amount certified by the district under subsection (b). The amount of the grant the district is eligible to receive shall be an amount equal to the lesser of the amount computed under this subsection or the amount certified under subsection (b). If the amount of appropriations for the payment of grants under this section is insufficient to pay in full the amount each school district is determined to be eligible to receive for the school year, the state board shall prorate the amount appropriated among all school districts which are eligible to receive grants of state moneys in proportion to the amount each school district is determined to be eligible to receive.

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

(g) As used in this section:

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

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

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

Sec. 78. K.S.A. 2016 Supp. 72-8190 is hereby amended to read as follows: 72-8190. (a) For the purpose of determination of *supplemental state aid under section 17, and amendments thereto*, and payments from the school district capital improvements fund under K.S.A. 75-2319, and amendments thereto, notwithstanding any provision of either such statutory section to the contrary, the term assessed valuation per pupil, as applied to unified school district No. 203, Wyandotte county, shall not include within its meaning the assessed valuation of property which is owned by Sunflower Racing, Inc. and operated as a racetrack facility known as the Woodlands. The meaning of assessed valuation per pupil as provided in this subsection, for the purposes specified in this subsection, and as applied to the unified school district designated in this subsection, shall be in force and effect for the 1994-95 and 1995-96 school years.

(b) (1) In the event unified school district No. 203, Wyandotte county, receives in any school year the proceeds from any taxes which

may be paid upon the Woodlands for the 1994-95 school year or the 1995-96 school year or for both such school years, the state board of education shall deduct an amount equal to the amount of such tax proceeds from future payments of state aid to which the district is entitled.

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

Sec. 79. K.S.A. 2016 Supp. 72-8230 is hereby amended to read as follows: 72-8230. (a) In the event the boards of education of any two or more school districts enter into a school district interlocal cooperation agreement for the purpose of jointly and cooperatively performing any of the services, duties, functions, activities, obligations or responsibilities which are authorized or required by law to be performed by school districts of this state, the following conditions shall apply:

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

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

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

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

(5) The duration of a school district interlocal cooperation agreement for joint or cooperative action in performing any of the services, duties, functions, activities, obligations or responsibilities, other than the provision of special education services, which are authorized or required by law to be performed by school districts of this state, shall be for a term of at least three years but not exceeding five years.

(6) (A) The duration of a school district interlocal cooperation agreement for joint or cooperative action in providing special education services shall be perpetual unless the agreement is partially or completely terminated in accordance with this provision. This provision applies to

every school district interlocal cooperation agreement for the provision of special education services entered into under authority of this section after the effective date of this act and to every such agreement entered into under this section prior to the effective date of this act, and extant on the effective date of this act, regardless of any provisions in such an agreement to the contrary.

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

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

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

(E) The state board shall take such action in approving or disapproving the complete or partial termination of a school district interlocal cooperation agreement for the provision of special education services as the

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

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

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

(b) Except as otherwise specifically provided in this subsection, any power or powers, privileges or authority exercised or capable of exercise by any school district of this state, or by any board of education thereof, may be jointly exercised pursuant to the provisions of a school district interlocal cooperation agreement. No power or powers, privileges or authority with respect to the levy and collection of taxes, the issuance of bonds, or the purposes and provisions of the ~~classroom learning-assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act*, section 3 et seq., and amendments thereto, or title I of public law 874 shall be created or effectuated for joint exercise pursuant to the provisions of a school district interlocal cooperation agreement.

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

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

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

(f) As used in this section:

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

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

Sec. 80. K.S.A. 2016 Supp. 72-8233 is hereby amended to read as follows: 72-8233. (a) In accordance with the provisions of this section, the boards of education of any two or more unified school districts may make and enter into agreements providing for the attendance of pupils residing in one school district at school in kindergarten or any of the grades one through 12 maintained by any such other school district. The boards of education may also provide by agreement for the combination of enrollments for kindergarten or one or more grades, courses or units of instruction.

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

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

(2) The agreement shall be subject to change or termination by the legislature.

(3) Within the limitations provided by law, the agreement may be changed or terminated by mutual agreement of the participating boards of education.

(4) The agreement shall make provision for transportation of pupils to and from the school attended on every school day, for payment or sharing of the costs and expenses of pupil attendance at school, and for the authority and responsibility of the participating boards of education.

(c) Provision by agreements entered into under authority of this section for the attendance of pupils at school in a school district of nonresidence of such pupils shall be deemed to be *in* compliance with the kindergarten, grade, course and units of instruction requirements of law.

(d) The board of education of any school district which enters into an agreement under authority of this section for the attendance of pupils at school in another school district may discontinue kindergarten or any or all of the grades, courses and units of instruction specified in the agreement for attendance of pupils enrolled in kindergarten or any such grades, courses and units of instruction at school in such other school district. Upon discontinuing kindergarten or any grade, course or unit of instruction under authority of this subsection, the board of education may close any school building or buildings operated or used for attendance by pupils enrolled in such discontinued kindergarten, grades, courses or units of instruction. The closing of any school building under authority of this subsection shall require a majority vote of the members of the board of education and shall require no other procedure or approval.

(e) Pupils attending school in a school district of nonresidence of such pupils in accordance with an agreement made and entered into under

authority of this section shall be counted as regularly enrolled in and attending school in the school district of residence of such pupils for the purpose of computations under the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto.

(f) Pupils who satisfactorily complete grade 12 while in attendance at school in a school district of nonresidence of such pupils in accordance with the provisions of an agreement entered into under authority of this section shall be certified as having graduated from the school district of residence of such pupils unless otherwise provided for by the agreement.

Sec. 81. K.S.A. 2016 Supp. 72-8236 is hereby amended to read as follows: 72-8236. (a) The board of education of any school district may: (1) Establish, operate and maintain a child care facility; (2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility; (3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and (4) prescribe and collect fees for providing care at a child care facility.

(b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto, and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.

(c) Every school district which establishes, operates and maintains a child care facility shall be subject to the provisions contained in article 5 of chapter 65 of Kansas Statutes Annotated, and amendments thereto.

(d) As used in this section, the term “child” means any child who is three years of age or older, and any infant or toddler whose parent or parents are pupils or employees of a school district which establishes, operates and maintains, or cooperates in the establishment, operation and maintenance of, a child care facility under authority of this act.

Sec. 82. K.S.A. 2016 Supp. 72-8249 is hereby amended to read as follows: 72-8249. (a) There is hereby established in every school district a special reserve fund. Moneys in such fund shall be used to:

(1) Pay claims, judgments, expenses and other purposes relating to

health care services, disability income benefits and group life insurance benefits as authorized by K.S.A. 72-8415a, and amendments thereto;

(2) pay costs relating to uninsured losses; and

(3) pay the cost of workers compensation insurance and workers compensation claims, awards, expenses and other purposes authorized by the workers compensation act.

~~Moneys in such fund may be transferred to the general fund of the school district as approved by the board of education.~~

(b) Any balance remaining in the special reserve fund at the end of the budget year shall be carried forward into that reserve fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the special reserve fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

Sec. 83. K.S.A. 2016 Supp. 72-8250 is hereby amended to read as follows: 72-8250. (a) There is hereby established in every school district a textbook and student materials revolving fund. Moneys in such fund shall be used to:

(1) Purchase any items designated in K.S.A. 72-5389, and amendments thereto;

(2) pay the cost of materials or other items used in curricular, extra-curricular or other school-related activities; and

(3) purchase textbooks as authorized by K.S.A. 72-4141, and amendments thereto.

~~Moneys in such fund may be transferred to the general fund of the school district as approved by the board of education.~~

(b) Any balance remaining in the textbook and student materials revolving fund at the end of the budget year shall be carried forward into that fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the textbook and student materials revolving fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. ~~Interest earned on the investment of moneys in any such fund shall be credited to that fund.~~

Sec. 84. K.S.A. 2016 Supp. 72-8251 is hereby amended to read as follows: 72-8251. Whenever a school district is required by law to make any payment during the month of June and there is insufficient revenue to make such payment as a result of the payment of state aid after the date prescribed by the state board of education pursuant to ~~K.S.A. 2016~~



Supp. 72-6466 section 7, and amendments thereto, the school district shall make such payment as soon as moneys are available.

Sec. 85. K.S.A. 2016 Supp. 72-8302 is hereby amended to read as follows: 72-8302. (a) The board of education of a school district may provide or furnish transportation for ~~pupils~~ *students* who are enrolled in the school district to or from any school of the school district or to or from any school of another school district attended by such ~~pupils~~ *students* in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto.

(b) (1) When any or all of the conditions specified in this provision exist, the board of education of a school district shall provide or furnish transportation for ~~pupils~~ *students* who reside in the school district and who attend any school of the school district or who attend any school of another school district in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto. The conditions which apply to the requirements of this provision are as follows:

(A) The residence of the ~~pupil~~ *student* is inside or outside the corporate limits of a city, the school building attended is outside the corporate limits of a city and the school building attended is more than 2½ miles by the usually traveled road from the residence of the ~~pupil~~ *student*; or

(B) the residence of the ~~pupil~~ *student* is outside the corporate limits of a city, the school building attended is inside the corporate limits of a city and the school building attended is more than 2½ miles by the usually traveled road from the residence of the ~~pupil~~ *student*; or

(C) the residence of the ~~pupil~~ *student* is inside the corporate limits of one city, the school building attended is inside the corporate limits of a different city and the school building attended is more than 2½ miles by the usually traveled road from the residence of the ~~pupil~~ *student*.

(2) The provisions of this subsection are subject to the provisions of subsections (c) and (d).

(c) The board of education of every school district is authorized to adopt rules and regulations to govern the conduct, control and discipline of all ~~pupils~~ *students* while being transported in school buses. The board may suspend or revoke the transportation privilege or entitlement of any ~~pupil~~ *student* who violates any rules and regulations adopted by the board under authority of this subsection.

(d) The board of education of every school district may suspend or revoke the transportation privilege or entitlement of any ~~pupil~~ *student* who is detained at school at the conclusion of the school day for violation of any rules and regulations governing ~~pupil~~ *student* conduct or for disobedience of an order of a teacher or other school authority. Suspension or revocation of the transportation privilege or entitlement of any ~~pupil~~ *student*

*student* specified in this subsection shall be limited to the school day or days on which the ~~pupil student~~ is detained at school. The provisions of this subsection do not apply to any ~~pupil student~~ who has been determined to be an exceptional child, except gifted children, under the provisions of the special education for exceptional children act.

(e) (1) Subject to the limitations specified in this subsection, the board of education of any school district may prescribe and collect fees to offset, totally or in part, the costs incurred for the provision or furnishing of transportation for ~~pupils students~~. The limitations which apply to the authorization granted by this subsection are as follows:

(A) Fees for the provision or furnishing of transportation for ~~pupils students~~ shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the provision or furnishing of transportation for ~~pupils students~~ and only to the extent that such costs are not reimbursed from any other source provided by law;

(B) fees for the provision or furnishing of transportation may not be assessed against or collected from any ~~pupil student who is counted in determining the transportation weighting of the school district under the Kansas school equity and enhancement act, section 3 et seq., and amendments thereto, or any student who is determined to be a child with disabilities under the provisions of the special education for exceptional children act or any pupil student who is eligible for free or reduced price meals under the national school lunch act or any pupil student who is entitled to transportation under the provisions of K.S.A. 72-8306(a), and amendments thereto, and who resides 2½ miles or more by the regular route of a school bus from the school attended;~~

(C) fees for the provision or furnishing of transportation for ~~pupils students~~ in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233 or 72-8307, and amendments thereto, shall be controlled by the provisions of the agreement.

(2) All moneys received by a school district from fees collected under this subsection shall be deposited in the general fund of the district.

Sec. 86. K.S.A. 2016 Supp. 72-8309 is hereby amended to read as follows: 72-8309. (a) The board of education of a school district shall not furnish or provide transportation for ~~pupils or~~ students who reside in another school district except in accordance with the written consent of the board of education of the school district in which such ~~pupil or~~ student resides, or in accordance with an order issued by a board of education under the provisions of K.S.A. 72-1046b, and amendments thereto, or in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto.

(b) A school district may transport a nonresident ~~pupil or~~ student if such ~~pupil or~~ student boards the school bus within the boundaries or on the boundary of the transporting school district. To the extent that the

provisions of this subsection conflict with the provisions of subsection (a), the provisions of subsection (a) shall control.

(c) *No student who is furnished or provided transportation by a school district that is not the school district in which the student resides shall be counted in the computation of the school district's transportation weighting under the Kansas school equity and enhancement act, section 3 et seq., and amendments thereto.*

Sec. 87. K.S.A. 2016 Supp. 72-8316 is hereby amended to read as follows: 72-8316. (a) Any board of education, pursuant to a policy developed and adopted by it, may provide for the use of district-owned or leased school buses when such buses are not being used for regularly required school purposes. The policy may provide for:

(1) (A) Transporting parents and other adults to or from school-related functions or activities; (B) transporting ~~pupils~~ *students* to or from functions or activities sponsored by organizations, the membership of which is principally composed of children of school age; and (C) transporting persons engaged in field trips in connection with their participation in an adult education program maintained by the transporting school district or by any other school district, within or outside the boundaries of the transporting school district; and

(2) contracting with: (A) The governing body of any township, city or county for transportation of individuals, groups or organizations; (B) the governing authority of any nonpublic school for transportation of ~~pupils~~ *students* attending such nonpublic school to or from interschool or intraschool functions or activities; (C) the board of trustees of any community college for transportation of students enrolled in such community college to or from attendance at class at the community college or to and from functions or activities of the community college; (D) a public recreation commission established and operated under the laws of this state, for any purposes related to the operation of the recreation commission and all programs and services thereof; (E) the board of education of any other school district for transportation, on a cooperative and shared-cost basis, of ~~pupils~~ *students*, school personnel, parents and other adults to or from school-related functions or activities; or (F) a four-year college or university, area vocational school or area vocational-technical school for transportation of students to or from attendance at class at the four-year college or university, area vocational school or area vocational-technical school or for transportation of students, alumni and other members of the public to or from functions or activities of the four-year college or university, area vocational school or area vocational-technical school.

(b) *The costs related to the use of school buses under the authority of this section shall not be considered in determining the transportation weighting of a school district under the Kansas school equity and enhancement act, section 3 et seq., and amendments thereto.*

~~(b)~~(c) Transportation fees may be charged by the board to offset, totally or in part, the costs incurred for the use of school buses under authority of this section.

~~(c)~~(d) Any revenues received by a board of education as transportation fees or under any contract entered into pursuant to this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the school district for the purpose of the ~~classroom learning assuring student success act, K.S.A. 2016 Supp. 72-6463~~ *Kansas school equity and enhancement act, section 3 et seq.*, and amendments thereto. Such revenues may be expended whether the same have been budgeted or not.

~~(d)~~(e) The provisions of K.S.A. 8-1556(c), and amendments thereto, apply to the use of school buses under authority of this section.

Sec. 88. K.S.A. 2016 Supp. 72-8415b is hereby amended to read as follows: 72-8415b. (a) Any school district that elects to become a self-insurer under the provisions of K.S.A. 72-8414, and amendments thereto, may transfer moneys from its general fund to the special reserve fund of the district as provided by ~~K.S.A. 2016 Supp. 72-6478~~ *section 42*, and amendments thereto.

(b) Any community college that elects to become a self-insurer under the provisions of K.S.A. 72-8414, and amendments thereto, may transfer such amounts from its general fund to the health care services reserve fund or the disability income benefits reserve fund, or the group life benefit reserve fund, or all three, as may be deemed necessary to meet the cost of health care services or disability income benefits, or group life insurance claims, whichever is applicable.

Sec. 89. K.S.A. 2016 Supp. 72-8801 is hereby amended to read as follows: 72-8801. (a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate upon the taxable tangible property in the school district for the purposes specified in this act and, *with respect to any redevelopment district established prior to July 1, 2017, pursuant to K.S.A. 12-1771, and amendments thereto*, for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. \_\_\_\_\_,  
\_\_\_\_\_ County, Kansas.

RESOLUTION

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy for a period not to exceed \_\_\_\_\_ years in an amount not to

exceed \_\_\_\_\_ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining and equipping of school district property and equipment necessary for school district purposes, including: (1) ~~Acquisition of~~ Computer software; (2) ~~acquisition of~~ performance uniforms; (3) housing and boarding pupils enrolled in an area vocational school operated under the board; (4) architectural expenses; (5) ~~acquisition of~~ building sites; (6) undertaking and maintenance of asbestos control projects; (7) ~~acquisition of~~ school buses; (8) *utility expenses*; (9) *property and casualty insurance*; and (8) ~~acquisition of~~ (10) other fixed assets, and *with respect to any redevelopment district established prior to July 1, 2017, pursuant to K.S.A. 12-1771, and amendments thereto*, for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made, unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 calendar days after the last publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in the school district at an election called for that purpose or at the next general election, as is specified by the board of education of the above school district.

CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

All of the blanks in the above resolution shall be appropriately filled. The blank preceding the word “years” shall be filled with a specific number, and the blank preceding the word “mills” shall be filled with a specific number, and no word shall be inserted in either of the blanks. The resolution shall be published once a week for two consecutive weeks in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board of education may make the tax levy specified in the resolution. If a petition is filed as provided in the resolution, the board of education may notify the county election officer of the date of an election to be held to submit the question of whether the tax levy shall be authorized. If the board of education fails to notify the county election officer within 60 calendar days after a petition is filed, the resolution shall

be deemed abandoned and no like resolution shall be adopted by the board of education within the nine months following the first publication of the resolution.

(b) As used in this act:

(1) “Unconditionally authorized to make a capital outlay tax levy” means that the school district has adopted a resolution under this section, has published the same, and either that the resolution was not protested or that it was protested and an election has been held by which the tax levy specified in the resolution was approved;

(2) “statutorily prescribed mill rate” means: (A) Eight mills; (B) the mill levy rate in excess of eight mills if the resolution fixing such rate was approved at an election prior to the effective date of this act; or (C) the mill levy rate in excess of eight mills if no petition or no sufficient petition was filed in protest to a resolution fixing such rate in excess of eight mills and the protest period for filing such petition has expired;

(3) “asbestos control project” means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of school districts and includes, but not by way of limitation, any activity undertaken for the removal or encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, reinspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(4) “asbestos” means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonitegrunerite), anthophyllite, tremolite, and actinolite; and

(5) “asbestos-containing material” means any material or product which contains more than 1% asbestos.

Sec. 90. K.S.A. 72-8803 is hereby amended to read as follows: 72-8803. There is hereby established in every school district of the state a fund which shall be called the capital outlay fund. The capital outlay fund shall consist of all moneys deposited therein or transferred thereto in accordance with law. The proceeds of any tax levied under article 88 of chapter 72 of Kansas Statutes Annotated, *and amendments thereto, shall be deposited in the capital outlay fund of the school district making such levy*, except for an amount to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district, ~~shall be deposited in the capital outlay fund of the school district making such levy with respect to any redevelopment district established prior to July 1, 2017, pursuant to K.S.A. 12-1771, and amendments thereto.~~

Sec. 91. K.S.A. 2016 Supp. 72-8804 is hereby amended to read as

follows: 72-8804. (a) Any moneys in the capital outlay fund of any school district and any moneys received from issuance of bonds under K.S.A. 72-8805 or 72-8810, and amendments thereto, may be used for the purpose of the acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining and equipping of school district property and equipment necessary for school district purposes, including: (1) ~~Acquisition of Computer software;~~ (2) ~~acquisition of performance uniforms;~~ (3) housing and boarding pupils enrolled in an area vocational school operated under the board of education; (4) architectural expenses; (5) ~~acquisition of building sites;~~ (6) undertaking and maintenance of asbestos control projects; (7) ~~acquisition of school buses;~~ (8) *utility expenses;* (9) *property and casualty insurance;* and (8) ~~acquisition of (10) other fixed assets, and, for school years 2015-2016 and 2016-2017, subject to the provisions of K.S.A. 2016 Supp. 72-6478, and amendments thereto, may be transferred to the general fund of the school district as approved by the board of education.~~

(b) The board of education of any school district is hereby authorized to invest any portion of the capital outlay fund of the school district which is not currently needed in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein, or may invest the same in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall upon receipt thereof be credited to the capital outlay fund.

Sec. 92. K.S.A. 2016 Supp. 72-8908 is hereby amended to read as follows: 72-8908. As used in this act:

- (a) “Juvenile” means a person who is less than 18 years of age;
- (b) “adult” means a person who is 18 years of age or older;
- (c) “felony” means any crime designated a felony by the laws of Kansas or the United States;
- (d) “misdemeanor” means any crime designated a misdemeanor by the laws of Kansas or the United States;
- (e) “school day” means any day on which school is maintained;
- (f) “school year” ~~has the meaning ascribed thereto in K.S.A. 2016 Supp. 72-6464~~ means the same as such term is defined in section 4, and amendments thereto;
- (g) “counsel” means any person a pupil selects to represent and advise the pupil at all proceedings conducted pursuant to the provisions of this act; and
- (h) “principal witness” means any witness whose testimony is of major importance in support of the charges upon which a proposed suspension or expulsion from school is based, or in determination of material questions of fact.

Sec. 93. K.S.A. 2016 Supp. 72-9509 is hereby amended to read as follows: 72-9509. (a) There is hereby established in every school district a fund which shall be called the bilingual education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. ~~Amounts deposited in the bilingual education fund may be used for the payment of expenses directly attributable to bilingual education or may be transferred to the general fund of the school district as approved by the board of education.~~ *The expenses of a school district directly attributable to such bilingual education programs shall be paid from the bilingual education fund. Moneys deposited in or otherwise transferred to the bilingual education fund shall only be expended for those costs directly attributable to the provision of bilingual education programs.*

(b) Any balance remaining in the bilingual education fund at the end of the budget year shall be carried forward into the bilingual education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the bilingual education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. ~~Interest earned on the investment of moneys in any such fund shall be credited to that fund.~~

(c) Each year the board of education of each school district shall prepare and submit to the state board a report on the bilingual education program and assistance provided by the district. Such report shall include information specifying the number of pupils who were served or provided assistance, the type of service provided, the research upon which the district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

Sec. 94. K.S.A. 2016 Supp. 72-9609 is hereby amended to read as follows: 72-9609. There is hereby established in every school district a fund which shall be called the professional development fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by the school district from whatever source for professional development programs established under this act shall be credited to the fund established by this section. ~~Amounts deposited in the professional development fund may be used for the payment of expenses directly attributable to professional development or may be transferred to the general fund of the school district as approved by the board of education.~~ *The expenses of a school district directly attributable to professional development programs shall be paid from the professional development fund.*

Sec. 95. K.S.A. 2016 Supp. 72-99a02 is hereby amended to read as



follows: 72-99a02. As used in the tax credit for low income students scholarship program act:

(a) “Contributions” means monetary gifts or donations and in-kind contributions, gifts or donations that have an established market value.

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

(c) “Educational scholarship” means an amount not to exceed \$8,000 per school year provided to an eligible student, or to a qualified school with respect to an eligible student, to cover all or a portion of the costs of education including tuition, fees and expenses of a qualified school and, if applicable, the costs of transportation to a qualified school if provided by such qualified school.

(d) “Eligible student” means a child who:

(1) (A) Qualifies as an at-risk pupil as defined in K.S.A. 72-6407, prior to its repeal, and who is attending a public school; or (B) has been eligible to receive an educational scholarship under this program and has not graduated from high school or reached 21 years of age;

(2) resides in Kansas while eligible for an educational scholarship; and

(3) (A) was enrolled in any public school in the previous school year in which an educational scholarship is first sought for the child; or (B) is eligible to be enrolled in any public school in the school year in which an educational scholarship is first sought for the child and the child is under the age of six years.

(e) “Parent” includes a guardian, custodian or other person with authority to act on behalf of the child.

(f) “Program” means the tax credit for low income students scholarship program established in K.S.A. 2016 Supp. 72-99a01 through 72-99a07, and amendments thereto.

(g) “Public school” means a school that would qualify as either a title I focus school or a title I priority school as described by the state board under the elementary and secondary education act flexibility waiver as amended in January 2013, and is operated by a school district.

(h) “Qualified school” means any nonpublic school that provides education to elementary or secondary students, has notified the state board of its intention to participate in the program and complies with the requirements of the program.

(i) “Scholarship granting organization” means an organization that complies with the requirements of this program and provides educational scholarships to eligible students or to qualified schools in which parents have enrolled eligible students.

(j) “School district” or “district” means any unified school district organized and operating under the laws of this state.

(k) “School year” shall have the meaning ascribed thereto in ~~K.S.A. 2016 Supp. 72-6464 section 4~~, and amendments thereto.

(l) “Secretary” means the secretary of revenue.

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

Sec. 96. On and after July 1, 2018, K.S.A. 2016 Supp. 72-99a02, as amended by section 95 of this act, is hereby amended to read as follows: 72-99a02. As used in the tax credit for low income students scholarship program act:

(a) “Contributions” means monetary gifts or donations and in-kind contributions, gifts or donations that have an established market value.

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

(c) “Educational scholarship” means an amount not to exceed \$8,000 per school year provided to an eligible student, or to a qualified school with respect to an eligible student, to cover all or a portion of the costs of education including tuition, fees and expenses of a qualified school and, if applicable, the costs of transportation to a qualified school if provided by such qualified school.

(d) “Eligible student” means a child who:

(1) (A) ~~Qualifies as an at-risk pupil as defined in K.S.A. 72-6407, prior to its repeal~~ *Is an at-risk student, as defined in section 4, and amendments thereto*, and who is attending a public school; or (B) has been eligible to receive an educational scholarship under this program and has not graduated from high school or reached 21 years of age;

(2) resides in Kansas while eligible for an educational scholarship; and

(3) (A) was enrolled in any public school in the previous school year in which an educational scholarship is first sought for the child; or (B) is eligible to be enrolled in any public school in the school year in which an educational scholarship is first sought for the child and the child is under the age of six years.

(e) “Parent” includes a guardian, custodian or other person with authority to act on behalf of the child.

(f) “Program” means the tax credit for low income students scholarship program established in K.S.A. 2016 Supp. 72-99a01 through 72-99a07, and amendments thereto.

(g) “Public school” means a school that ~~would qualify as either a title I focus school or a title I priority school as described by the state board under the elementary and secondary education act flexibility waiver as amended in January 2013~~ and is operated by a school district, *and identified by the state board as one of the lowest 100 performing schools with respect to student achievement among all schools operated by school districts for the current school year.*

(h) “Qualified school” means any nonpublic school that provides education to elementary or secondary students, has notified the state board of its intention to participate in the program and complies with the requirements of the program. *On and after July 1, 2020, a qualified school shall be accredited by the state board or a national or regional accrediting agency that is recognized by the state board for the purpose of satisfying the teaching performance assessment for professional licensure.*

(i) “Scholarship granting organization” means an organization that

complies with the requirements of this program and provides educational scholarships to eligible students or to qualified schools in which parents have enrolled eligible students.

(j) “School district” or “district” means any unified school district organized and operating under the laws of this state.

(k) “School year” shall have the meaning ascribed thereto in section 4, and amendments thereto.

(l) “Secretary” means the secretary of revenue.

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

Sec. 97. K.S.A. 2016 Supp. 72-99a07 is hereby amended to read as follows: 72-99a07. (a) (1) There shall be allowed a credit against the corporate income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax liability imposed upon a taxpayer pursuant to the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and the premium tax liability imposed upon a taxpayer pursuant to the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, for tax years commencing after December 31, 2014, *and ending before January 1, 2017*, an amount equal to 70% of the amount contributed to a scholarship granting organization authorized pursuant to K.S.A. 2016 Supp. 72-99a01 et seq., and amendments thereto.

(2) *There shall be allowed a credit against the tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, the privilege tax liability imposed upon a taxpayer pursuant to the privilege tax imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and the premium tax liability imposed upon a taxpayer pursuant to the premiums tax and privilege fees imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, for tax years commencing after December 31, 2016, an amount equal to 70% of the amount contributed to a scholarship granting organization authorized pursuant to K.S.A. 2016 Supp. 72-99a01 et seq., and amendments thereto. In no event shall the total amount of contributions for any taxpayer allowed under this subsection exceed \$500,000 for any tax year.*

(b) The credit shall be claimed and deducted from the taxpayer’s tax liability during the tax year in which the contribution was made to any such scholarship granting organization.

(c) For each tax year, in no event shall the total amount of credits allowed under this section exceed \$10,000,000 for any one tax year. Except as otherwise provided, the allocation of such tax credits for each scholarship granting organization shall be determined by the scholarship

granting organization in consultation with the secretary, and such determination shall be completed prior to the issuance of any tax credits pursuant to this section.

(d) If the amount of any such tax credit claimed by a taxpayer exceeds the taxpayer's income, privilege or premium tax liability, such excess amount may be carried over for deduction from the taxpayer's income, privilege or premium tax liability in the next succeeding year or years until the total amount of the credit has been deducted from tax liability.

(e) The secretary shall adopt rules and regulations regarding filing of documents that support the amount of credit claimed pursuant to this section.

Sec. 98. K.S.A. 2016 Supp. 74-4939a is hereby amended to read as follows: 74-4939a. On and after the effective date of this act for each fiscal year commencing with fiscal year 2005, notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, or any other statute, all moneys appropriated for the department of education from the state general fund commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by appropriation act of the legislature, in the KPERS – employer contributions account and all moneys appropriated for the department of education from the state general fund or any special revenue fund for each fiscal year commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by any such appropriation act in that account or any other account for payment of employer contributions for school districts, shall be distributed by the department of education to school districts in accordance with this section. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, ~~for school year 2015-2016, the department of education shall disburse to each school district that is an eligible employer as specified in K.S.A. 74-4931(1), and amendments thereto, an amount in accordance with K.S.A. 2016 Supp. 72-6465(a)(6), and amendments thereto, which shall be disbursed pursuant to K.S.A. 2016 Supp. 72-6465, and amendments thereto. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, for school year 2016-2017, the department of education shall disburse to each school district that is an eligible employer as specified in K.S.A. 74-4931(1), and amendments thereto, an amount in accordance with K.S.A. 2016 Supp. 72-6465(b)(4), and amendments thereto, which shall be disbursed pursuant to K.S.A. 2016 Supp. 72-6465, and amendments thereto~~ *certified by the board of trustees of the Kansas public employees retirement system that is equal to the participating employer's obligation of such school district to the system in accordance with policies and procedures that are hereby authorized and directed to be adopted by the state board of education for the purposes of this section and in accordance with any requirements prescribed by the board of trustees of the Kansas public employees retirement system.* Upon receipt of each such disbursement of moneys, the

school district shall deposit the entire amount thereof into a special retirement contributions fund of the school district, which shall be established by the school district in accordance with such policies and procedures and which shall be used for the sole purpose of receiving such disbursements from the department of education and making the remittances to the system in accordance with this section and such policies and procedures. Upon receipt of each such disbursement of moneys from the department of education, the school district shall remit, in accordance with the provisions of such policies and procedures and in the manner and on the date or dates prescribed by the board of trustees of the Kansas public employees retirement system, an equal amount to the Kansas public employees retirement system from the special retirement contributions fund of the school district to satisfy such school district's obligation as a participating employer. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, each school district that is an eligible employer as specified in K.S.A. 74-4931(1), and amendments thereto, shall show within the budget of such school district all amounts received from disbursements into the special retirement contributions fund of such school district. Notwithstanding the provisions of any other statute, no official action of the school board of such school district shall be required to approve a remittance to the system in accordance with this section and such policies and procedures. All remittances of moneys to the system by a school district in accordance with this subsection and such policies and procedures shall be deemed to be expenditures of the school district.

Sec. 99. K.S.A. 2016 Supp. 74-8925 is hereby amended to read as follows: 74-8925. (a) For the purposes of this act, the term "taxing subdivision" shall include the county, the city, the unified school district and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district. The term "real property taxes" includes all taxes levied on an ad valorem basis upon land and improvements thereon, other than the property tax levied pursuant to the provisions of ~~K.S.A. 2016 Supp. 72-6470 section 14~~, and amendments thereto, or any other property tax levied by or on behalf of a school district.

(b) All tangible taxable property located within a redevelopment district shall be assessed and taxed for ad valorem tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all ad valorem taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected. Except as otherwise provided in this section, the county treasurer shall distribute such taxes as may be collected in the same manner as if such property were located outside a redevelopment district. Each redevelopment district established

under the provisions of this act shall constitute a separate taxing unit for the purpose of the computation and levy of taxes.

(c) Beginning with the first payment of taxes which are levied following the date of approval of any redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, real property taxes received by the county treasurer resulting from taxes which are levied subject to the provisions of this act by and for the benefit of a taxing subdivision, as herein defined, on property located within such redevelopment district constituting a separate taxing unit under the provisions of this section, shall be divided as follows:

(1) From the taxes levied each year subject to the provisions of this act by or for each of the taxing subdivisions upon property located within a redevelopment district constituting a separate taxing unit under the provisions of this act, the county treasurer first shall allocate and pay to each such taxing subdivision all of the real property taxes collected which are produced from that portion of the current assessed valuation of such real property located within such separate taxing unit which is equal to the total assessed value of such real property on the date of the establishment of the redevelopment district.

(2) Any real property taxes produced from that portion of the current assessed valuation of real property within the redevelopment district constituting a separate taxing unit under the provisions of this section in excess of an amount equal to the total assessed value of such real property on the effective date of the establishment of the district shall be allocated and paid by the county treasurer according to specified percentages of the tax increment expressly agreed upon and consented to by the governing bodies of the county and school district in which the redevelopment district is located. The amount of the real property taxes allocated and payable to the authority under the agreement shall be paid by the county treasurer to the treasurer of the state. The remaining amount of the real property taxes not payable to the authority shall be allocated and paid in the same manner as other ad valorem taxes. Any real property taxes paid to the state treasurer under this section shall be deposited in the redevelopment bond finance fund of the authority which is created pursuant to K.S.A. 74-8927, and amendments thereto, to pay the costs of any approved redevelopment project, including the payment of principal of and interest on any bonds issued by the authority to finance, in whole or in part, such project. When such bonds and interest thereon have been paid, all moneys thereafter received from real property taxes within such redevelopment district shall be allocated and paid to the respective taxing subdivisions in the same manner as are other ad valorem taxes. If such bonds and interest thereon have been paid before the completion of a project, the authority may continue to use such moneys for any purpose authorized by the redevelopment agreement until such time as the project

costs are paid or reimbursed, but for a period not to exceed the final scheduled maturity of the bonds.

(d) In any redevelopment plan or in the proceedings for the issuing of any bonds by the authority to finance a project, the property tax increment portion of taxes provided for in subsection (c)(2) may be irrevocably pledged for the payment of the principal of and interest on such bonds. The authority may adopt a redevelopment plan in which only a specified percentage of the tax increment realized from taxpayers in the redevelopment district is pledged to the payment of costs.

Sec. 100. K.S.A. 2016 Supp. 74-99b43 is hereby amended to read as follows: 74-99b43. (a) The Kansas development finance authority is hereby authorized to issue special obligation bonds pursuant to K.S.A. 74-8901 et seq., and amendments thereto, in one or more series to finance the undertaking of any bioscience development project in accordance with the provisions of this act. No special obligation bonds may be issued pursuant to this section unless the Kansas development finance authority has received a resolution of the board of the authority requesting the issuance of such bonds. Such special obligation bonds shall be made payable, both as to principal and interest from one or more of the following, as directed by the authority:

(1) From ad valorem tax increments allocated to, and paid into the bioscience development bond fund for the payment of the project costs of a bioscience development project under the provisions of this section;

(2) from any private sources, contributions or other financial assistance from the state or federal government;

(3) from a pledge of a portion or all of the revenue received from transient guest, sales and use taxes collected pursuant to K.S.A. 12-1696 et seq., 79-3601 et seq., 79-3701 et seq. and 12-187 et seq., and amendments thereto, and which are collected from taxpayers doing business within that portion of the bioscience development district and paid into the bioscience development bond fund;

(4) from a pledge of a portion or all increased revenue received by any city from franchise fees collected from utilities and other businesses using public right-of-way within the bioscience development district; or

(5) by any combination of these methods.

(b) All tangible taxable property located within a bioscience development district shall be assessed and taxed for ad valorem tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all ad valorem taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected. Except as otherwise provided in this section, the county treasurer shall distribute such taxes as may be collected in the same manner as if such property were located outside a bioscience development district. Each bioscience

development district established under the provisions of this act shall constitute a separate taxing unit for the purpose of the computation and levy of taxes.

(c) Beginning with the first payment of taxes which are levied following the date of the establishment of the bioscience development district real property taxes received by the county treasurer resulting from taxes which are levied subject to the provisions of this act by and for the benefit of a taxing subdivision, as defined in K.S.A. 2016 Supp. 12-1770a, and amendments thereto, on property located within such bioscience development district constituting a separate taxing unit under the provisions of this section, shall be divided as follows:

(1) From the taxes levied each year subject to the provisions of this act by or for each of the taxing subdivisions upon property located within a bioscience development district constituting a separate taxing unit under the provisions of this act, the county treasurer first shall allocate and pay to each such taxing subdivision all of the real property taxes collected which are produced from the base year assessed valuation.

(2) Any real property taxes, except for property taxes levied for schools pursuant to ~~K.S.A. 2016 Supp. 72-6470~~ *section 14*, and amendments thereto, produced from that portion of the current assessed valuation of real property within the bioscience development district constituting a separate taxing unit under the provisions of this section in excess of the base year assessed valuation shall be allocated and paid by the county treasurer to the bioscience development bond fund to pay the bioscience development project costs including the payment of principal and interest on any special obligation bonds to finance, in whole or in part, such bioscience development projects.

(d) The authority may pledge the bioscience development bond fund or other available revenue to the repayment of such special obligation bonds prior to, simultaneously with, or subsequent to the issuance of such special obligation bonds.

(e) Any bonds issued under the provisions of this act and the interest paid thereon, unless specifically declared to be taxable in the authorizing resolution of the Kansas development finance authority, shall be exempt from all state, county and municipal taxes, and the exemption shall include income, estate and property taxes.

Sec. 101. K.S.A. 75-2318 is hereby amended to read as follows: 75-2318. (a) Upon receiving an application under K.S.A. 75-2317, and amendments thereto, the state board of education shall review the application and examine the evidence furnished in support of the application.

(b) (1) *Commencing in school year 2017-2018, the state board of education shall not approve any application submitted during the current school year if such approval would result in the aggregate amount of all*



*general obligation bonds approved by the state board for such school year exceeding the aggregate principal amount of all general obligation bonds retired in the immediately preceding school year. In determining whether to approve an application, the state board shall prioritize applications in accordance with the priorities set forth as follows in order of highest priority to lowest priority:*

*(A) Safety of the current facility and disability access to such facility as demonstrated by a state fire marshal report, an inspection under the Americans with disabilities act, 42 U.S.C. § 12101 et seq., or other similar evaluation;*

*(B) enrollment growth and imminent overcrowding as demonstrated by successive increases in enrollment of the school district in the immediately preceding three school years;*

*(C) impact on the delivery of educational services as demonstrated by restrictive inflexible design or limitations on installation of technology; and*

*(D) energy usage and other operational inefficiencies as demonstrated by a district-wide energy usage analysis, district-wide architectural analysis or other similar evaluation.*

*(2) The state board shall not consider a school district's eligibility for capital improvement state aid, or the amount of capital improvement state aid a school district would be eligible to receive, in determining whether to approve such district's application.*

*(3) The provisions of subsection (b)(1) shall not apply to school districts that have not issued any general obligation bonds in the 25 years prior to the current school year.*

*(c) After reviewing the application and examining the supportive evidence, the state board of education shall issue an order either granting or denying the application. If the application is approved, the applicant board of education shall request the county election officer to hold an election to vote upon the question of issuing the increased amount of bonds in the manner provided by law.*

*(d) Any application that is denied pursuant to subsection (b) may be tentatively approved by the state board of education for the immediately succeeding school year. The amount of general obligation bonds approved in any such application shall be counted first towards the aggregate amount of all general obligation bonds approved by the state board for such school year.*

*(e) Commencing in school year 2017-2018, the state board of education shall determine the aggregate principal amount of general obligation bonds retired in the immediately preceding school year.*

*(f) The provisions of subsections (b), (d) and (e) shall expire on June 30, 2022.*

Sec. 102. K.S.A. 2016 Supp. 75-2319 is hereby amended to read as

follows: 75-2319. (a) There is hereby established in the state treasury the school district capital improvements fund. The fund shall consist of all amounts transferred thereto under the provisions of subsection (c).

(b) In each school year, each school district which is obligated to make payments from its capital improvements fund shall be entitled to receive payment from the school district capital improvements fund in an amount determined by the state board of education as provided in this subsection.

(1) For general obligation bonds approved for issuance at an election held prior to July 1, 2015, the state board of education shall:

(A) Determine the amount of the assessed valuation per pupil (AVPP) of each school district in the state *for the preceding school year* and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this subsection (b)(1);

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

(C) prepare a schedule of dollar amounts using the amount of the median AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts and shall range downward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the lowest AVPP of all school districts;

(D) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the median AVPP shown on the schedule, decreasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval above the amount of the median AVPP, and increasing the state aid computation percentage assigned to the amount of the median AVPP by one percentage point for each \$1,000 interval below the amount of the median AVPP. Except as provided by K.S.A. 2016 Supp. 75-2319c, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district. The state aid percentage factor of a school district shall not exceed 100%. The state aid computation percentage is 25%;

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

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

(2) For general obligation bonds approved for issuance at an election held on or after July 1, 2015, the state board of education shall:

(A) Determine the amount of the AVPP of each school district in the state for *the preceding school year* and round such amount to the nearest \$1,000. The rounded amount is the AVPP of a school district for the purposes of this subsection (b)(2);

(B) prepare a schedule of dollar amounts using the amount of the AVPP of the school district with the lowest AVPP of all school districts as the point of beginning. The schedule of dollar amounts shall range upward in equal \$1,000 intervals from the point of beginning to and including an amount that is equal to the amount of the AVPP of the school district with the highest AVPP of all school districts;

(C) determine a state aid percentage factor for each school district by assigning a state aid computation percentage to the amount of the lowest AVPP shown on the schedule and decreasing the state aid computation percentage assigned to the amount of the lowest AVPP by one percentage point for each \$1,000 interval above the amount of the lowest AVPP. Except as provided by K.S.A. 2016 Supp. 75-2319c, and amendments thereto, the state aid percentage factor of a school district is the percentage assigned to the schedule amount that is equal to the amount of the AVPP of the school district. The state aid computation percentage is 75%;

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

(E) multiply the amount determined under subsection (b)(2)(D) by the applicable state aid percentage factor.

(3) For general obligation bonds approved for issuance at an election held on or before June 30, 2016, the sum of the amount determined under subsection (b)(1)(F) and the amount determined under subsection (b)(2)(E) is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.

(4) For general obligation bonds approved for issuance at an election held on or after July 1, 2016, the amount determined under subsection (b)(2)(E) is the amount of payment the school district shall receive from the school district capital improvements fund in the school year, except the total amount of payments school districts receive from the school district capital improvements fund in the school year for such bonds shall not exceed the six-year average amount of capital improvement state aid as determined by the state board of education.

(A) The state board of education shall determine the six-year average amount of capital improvement state aid by calculating the average of the total amount of moneys expended per year from the school district capital improvements fund in the immediately preceding six fiscal years, not to include the current fiscal year.

(B) (i) Subject to clause (ii), the state board of education shall pri-

ortize the allocations to school districts from the school district capital improvements fund in accordance with the priorities set forth as follows in order of highest priority to lowest priority:

(a) Safety of the current facility and disability access to such facility as demonstrated by a state fire marshal report, an inspection under the Americans with disabilities act, 42 U.S.C. § 12101 et seq., or other similar evaluation;

(b) enrollment growth and imminent overcrowding as demonstrated by successive increases in enrollment of the school district in the immediately preceding three school years;

(c) impact on the delivery of educational services as demonstrated by restrictive inflexible design or limitations on installation of technology; and

(d) energy usage and other operational inefficiencies as demonstrated by a district-wide energy usage analysis, district-wide architectural analysis or other similar evaluation.

(ii) In allocating capital improvement state aid, the state board shall give higher priority to those school districts with a lower AVPP compared to the other school districts that are to receive capital improvement state aid under this section.

(C) On and after July 1, 2016, the state board of education shall approve the amount of state aid payments a school district shall receive from the school district capital improvements fund pursuant to subsection (b)(5) prior to an election to approve the issuance of general obligation bonds.

(5) *Except as provided in subsections (b)(6) and (b)(7), the sum of the amounts determined under subsection (b)(3) and the amount determined or allocated to the district by the state board of education pursuant to subsection (b)(4), is the amount of payment the school district is entitled to receive from the school district capital improvements fund in the school year.*

(6) *A school district that had an enrollment of less than 260 students in the school year immediately preceding the school year in which an election is held to approve the issuance of general obligation bonds shall not be entitled to receive payments from the school district capital improvements fund unless such school district applied for and received approval from the state board of education to issue such bonds prior to holding an election to approve such bond issuance. The provisions of this paragraph shall apply to general obligation bonds approved for issuance at an election held on or after July 1, 2017, that are issued for the purpose of financing the construction of new school facilities.*

(7) *For general obligation bonds approved for issuance at an election held on or after July 1, 2017, in determining the amount under subsection (b)(2)(D), the state board shall exclude payments for any capital improvement project, or portion thereof, that proposes to construct, reconstruct*

*or remodel a facility that would be used primarily for extracurricular activities, unless the construction, reconstruction or remodeling of such facility is necessary due to concerns relating to the safety of the current facility or disability access to such facility as demonstrated by a state fire marshal report, an inspection under the Americans with disabilities act, 42 U.S.C. § 12101 et seq., or other similar evaluation.*

(c) The state board of education shall certify to the director of accounts and reports the entitlements of school districts determined under the provisions of subsection (b), and an amount equal thereto shall be transferred by the director from the state general fund to the school district capital improvements fund for distribution to school districts. All transfers made in accordance with the provisions of this subsection shall be considered to be demand transfers from the state general fund, except that all such transfers during the fiscal years ending ~~June 30, 2013~~, June 30, ~~2014~~ 2017, June 30, ~~2015~~ 2018, and June 30, ~~2016~~ 2019, shall be considered to be revenue transfers from the state general fund.

(d) Payments from the school district capital improvements fund shall be distributed to school districts at times determined by the state board of education to be necessary to assist school districts in making scheduled payments pursuant to contractual bond obligations. The state board of education shall certify to the director of accounts and reports the amount due each school district entitled to payment from the fund, and the director of accounts and reports shall draw a warrant on the state treasurer payable to the treasurer of the school district. Upon receipt of the warrant, the treasurer of the school district shall credit the amount thereof to the bond and interest fund of the school district to be used for the purposes of such fund.

(e) The provisions of this section apply only to contractual obligations incurred by school districts pursuant to general obligation bonds issued upon approval of a majority of the qualified electors of the school district voting at an election upon the question of the issuance of such bonds.

(f) On or before the first day of the legislative session in 2017, and each year thereafter, the state board of education shall prepare and submit a report to the legislature that includes information on school district elections held on or after July 1, 2016, to approve the issuance of general obligation bonds and the amount of payments school districts were approved to receive from the school district capital improvements fund pursuant to subsection (b)(4)(C).

Sec. 103. K.S.A. 2016 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~2015 and 2016~~ 2017 and 2018, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of ~~K.S.A. 2016 Supp. 72-6470~~ section 14, and amendments thereto: Prop-

erty used for residential purposes to the extent of \$20,000 of its appraised valuation.

Sec. 104. K.S.A. 2016 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the state board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the state board of tax appeals. With regard to a request for exemption from property tax pursuant to the provisions of K.S.A. 79-201g and 82a-409, and amendments thereto, not filed with the board of tax appeals by the county appraiser on or before the effective date of this act, if the county appraiser recommends the exemption request be granted, the exemption shall be provided in the amount recommended by the county appraiser and the county appraiser shall not file the request for exemption and recommendations of the county appraiser with the state board of tax appeals. The county clerk or county assessor shall annually make such adjustment in the taxes levied against the real property as the owner may be entitled to receive under the provisions of K.S.A. 79-201g, and amendments thereto, as recommended by the county appraiser, beginning with the first period, following the date of issue of the certificate of completion on which taxes are regularly levied, and during the years which the landowner is entitled to such adjustment.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the constitution of the state of Kansas; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property con-

structed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been deter-

mined to be exempt, the board shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(1) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) all property exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m, and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth*, and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x, and amendments thereto, from the property tax



levied pursuant to ~~K.S.A. 2016 Supp. 72-6470~~ *section 14*, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*, and amendments thereto; (17) from and after July 1, 1998, motor vehicles exempted from taxation by K.S.A. 79-5107(e), and amendments thereto; (18) commercial and industrial machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2016 Supp. 79-223, and amendments thereto; (19) telecommunications machinery and equipment and railroad machinery and equipment exempted from property or ad valorem taxation by K.S.A. 2016 Supp. 79-224, and amendments thereto; and (20) property exempted from property or ad valorem taxation by K.S.A. 2016 Supp. 79-234, and amendments thereto.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the constitution of the state of Kansas.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.

Sec. 105. K.S.A. 2016 Supp. 79-2001 is hereby amended to read as follows: 79-2001. (a) As soon as the county treasurer receives the tax roll of the county, the treasurer shall enter in a column opposite the description of each tract or parcel of land the amount of unpaid taxes and the date of unredeemed sales, if any, for previous years on such land. The treasurer shall cause a notice to be published in the official county paper once each week for three consecutive weeks, stating in the notice the amount of taxes charged for state, county, township, school, city or other purposes for that year, on each \$1,000 of valuation.

(b) Each year after receipt of the tax roll from the county clerk and before December 15, the treasurer shall mail to each taxpayer, as shown by the rolls, a tax statement which indicates the taxing unit, assessed value of real and personal property, the mill levy and tax due. In addition, with respect to land devoted to agricultural use, such statement shall indicate the acreage and description of each parcel of such land. The tax statement shall also indicate separately each parcel of real property which is separately classified for property tax purposes. The county appraiser shall provide the information necessary for the county treasurer to comply with the provisions of this section. The tax statement also may include the intangible tax due the county. All items may be on one statement or may be shown on separate statements and may be on a form prescribed by the county treasurer. The statement shall be mailed to the last known address of the taxpayer or to a designee authorized by the taxpayer to accept the tax statement, if the designee has an interest in receiving the

statement. When any statement is returned to the county treasurer for failure to find the addressee, the treasurer shall make a diligent effort to find a forwarding address of the taxpayer and mail the statement to the new address. All tax statements mailed pursuant to this section shall be mailed by first-class mail. The requirement for mailing a tax statement shall extend only to the initial statement required to be mailed in each year and to any follow-up required by this section.

(c) For tax year 1998, and all tax years thereafter, after receipt of the tax roll from the county clerk and before December 15, the treasurer shall mail to each taxpayer, as shown by the tax rolls, a tax information form which indicates the taxing unit, assessed value of real property for the current and next preceding taxable year, the mill levy for the current and next preceding taxable year and, in the case of unified school districts, the mill levy required by ~~K.S.A. 2016 Supp. 72-6470~~ *section 14*, and amendments thereto, shall be separately indicated, the tax due and an itemization of each taxing unit's mill levy for the current and next preceding taxable year and the percentage change in the amount of revenue produced therefrom, if any. In addition, with respect to land devoted to agricultural use, such form shall indicate the acreage and description of each parcel of such land. The tax information form shall also indicate separately each parcel of real property which is separately classified for property tax purposes. The county appraiser shall provide the information necessary for the county treasurer to comply with the provisions of this section. The tax information form may be separate from the tax statement or a part of the tax statement. The tax information form shall be in a format prescribed by the director of property valuation. The tax information form shall be mailed to the last known address of the taxpayer. When a tax information form is returned to the county treasurer for failure to find the addressee, the treasurer shall make a diligent effort to find a forwarding address of the taxpayer and mail the tax information form to the new address. All tax information forms mailed pursuant to this section shall be mailed by first class mail.

Sec. 106. K.S.A. 2016 Supp. 79-2925b is hereby amended to read as follows: 79-2925b. (a) Without a majority vote so providing, the governing body of any municipality shall not approve any appropriation or budget, as the case requires, which may be funded by revenue produced from property taxes, and which provides for funding with such revenue in an amount exceeding that of the next preceding year, adjusted to reflect changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding calendar year. If the total tangible property valuation in any municipality increases from the next preceding year due to increases in the assessed valuation of existing tangible property and such increase exceeds changes in the consumer price index, the governing body shall lower the amount of ad val-

orem tax to be levied to the amount of ad valorem tax levied in the next preceding year, adjusted to reflect changes in the consumer price index. This subsection shall not apply to ad valorem taxes levied under K.S.A. 76-6b01 and 76-6b04 and ~~K.S.A. 2016 Supp. 72-6470~~ *section 14*, and amendments thereto, and any other ad valorem tax levy which was previously approved by the voters of such municipality. Notwithstanding the requirements of this subsection, nothing herein shall prohibit a municipality from increasing the amount of ad valorem tax to be levied if the municipality approves the proposed increase with a majority vote of the governing body by the adoption of a resolution and publishes its vote to approve the appropriation or budget including the increase as provided in subsection (c).

(b) Revenue that, in the current year, is produced and attributable to the taxation of:

- (1) New improvements to real property;
- (2) increased personal property valuation;
- (3) property located within added jurisdictional territory; or
- (4) property which has changed in use shall not be considered when

determining whether revenue produced from property has increased from the next preceding year.

(c) In the event the governing body votes to approve any appropriation or budget, as the case requires, which may be funded by revenue produced from property taxes, and which provides for funding with such revenue in an amount exceeding that of the next preceding year as provided in subsection (a), notice of such vote shall be published in the official county newspaper of the county where such municipality is located.

(d) The provisions of this section shall be applicable to all fiscal and budget years commencing on and after the effective date of this act.

(e) The provisions of this section shall not apply to revenue received from property tax levied for the sole purpose of repayment of the principal of and interest upon bonded indebtedness, temporary notes and no-fund warrants.

(f) For purposes of this section:

(1) "Municipality" means any political subdivision of the state which levies an ad valorem tax on property and includes, but is not limited to, any township, municipal university, school district, community college, drainage district or other taxing district;

(2) "municipality" shall not include:

(A) Any such political subdivision or taxing district which receives \$1,000 or less in revenue from property taxes in the current year; or

(B) any city or county.

Sec. 107. K.S.A. 2016 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual

means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments thereto.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,204, and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203, and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2016 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2016 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2016 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to subsection (c)(xiii), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed

for deduction pursuant to K.S.A. 2016 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer, to the extent the deduction is attributable to income reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income tax return.

(xxi) For all taxable years beginning after December 31, 2012, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto,

in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For all taxable years beginning after December 31, 2012, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For all taxable years beginning after December 31, 2012, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xxv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

(xxvi) *For all taxable years beginning after December 31, 2016, the amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2016 Supp. 72-99a07, and amendments thereto, and is also claimed as an itemized deduction for federal income tax purposes.*

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. § 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas venture capital, inc.



(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249, and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2016 Supp. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. For all taxable years beginning after December 31, 2012, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2016 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

(xvii) For all taxable years beginning after December 31, 2004,

amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xviii) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

(xix) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university's retirement plan.

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income, not including guaranteed payments as defined in section 707(c) of the federal internal revenue code and as reported to the taxpayer from federal schedule K-1, (form 1065-B), in box 9, code F or as reported to the taxpayer from federal schedule K-1, (form 1065) in box 4, from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(xxi) For all taxable years beginning after December 31, 2013, amounts equal to the unreimbursed travel, lodging and medical expenditures directly incurred by a taxpayer while living, or a dependent of the taxpayer while living, for the donation of one or more human organs of the taxpayer, or a dependent of the taxpayer, to another person for human

organ transplantation. The expenses may be claimed as a subtraction modification provided for in this section to the extent the expenses are not already subtracted from the taxpayer's federal adjusted gross income. In no circumstances shall the subtraction modification provided for in this section for any individual, or a dependent, exceed \$5,000. As used in this section, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The provisions of this paragraph shall take effect on the day the secretary of revenue certifies to the director of the budget that the cost for the department of revenue of modifications to the automated tax system for the purpose of implementing this paragraph will not exceed \$20,000.

(xxii) For all taxable years beginning after December 31, 2012, the amount of net gain from the sale of: (1) Cattle and horses, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 24 months or more from the date of acquisition; and (2) other livestock, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 12 months or more from the date of acquisition. The subtraction from federal adjusted gross income shall be limited to the amount of the additions recognized under the provisions of subsection (b)(xix) attributable to the business in which the livestock sold had been used. As used in this paragraph, the term "livestock" shall not include poultry.

(xxiii) For all taxable years beginning after December 31, 2012, amounts received under either the Overland Park, Kansas police department retirement plan or the Overland Park, Kansas fire department retirement plan, both as established by the city of Overland Park, pursuant to the city's home rule authority.

(xxiv) For all taxable years beginning after December 31, 2013, the net gain from the sale from Christmas trees grown in Kansas and held by the taxpayer for six years or more.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

Sec. 108. In sections 1 and 2, if any fund or account name described by words and the numerical accounting code that follows such fund or account name do not match, it shall be conclusively presumed that the legislature intended that the fund or account name described by words is the correct fund or account name, and such fund or account name

described by words shall control over a contradictory or incorrect numerical accounting code.

Sec. 109. K.S.A. 12-17,115, 72-8803 and 75-2318 and K.S.A. 2016 Supp. 10-1116a, 12-1677, 12-1742, 12-1770a, 12-1775a, 12-1776a, 46-1133, 72-978, 72-1046b, 72-1398, 72-1414, 72-1923, 72-3712, 72-3715, 72-5333b, 72-6482, 72-64b01, 72-64c01, 72-64c03, 72-64c05, 72-6622, 72-6624, 72-6625, 72-6757, 72-67,115, 72-7535, 72-8187, 72-8190, 72-8230, 72-8233, 72-8236, 72-8249, 72-8250, 72-8251, 72-8302, 72-8309, 72-8316, 72-8415b, 72-8801, 72-8804, 72-8908, 72-9509, 72-9609, 72-99a02, 72-99a07, 74-4939a, 74-8925, 74-99b43, 75-2319, 75-2319, as amended by section 46 of 2017 Senate Substitute for Substitute for House Bill No. 2052, 79-201x, 79-213, 79-2001, 79-2925b and 79-32,117 are hereby repealed.

Sec. 110. On and after July 1, 2018, K.S.A. 2016 Supp. 72-99a02, as amended by section 95 of this act, is hereby repealed.

Sec. 111. This act shall take effect and be in force from and after its publication in the statute book.

Approved June 15, 2017.

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## CHAPTER 96

### Substitute for HOUSE BILL No. 2230

AN ACT concerning the Kansas cigarettes and tobacco products act; relating to definitions, licenses and permits, suspension or revocation of licenses, stamps, records required of dealers, unlawful acts, penalties, sale of cigarettes, application of certain laws to taxes, remittance of taxes, escrow deposits, taxation of electronic cigarettes; amending K.S.A. 79-3304, 79-3309, 79-3323, 79-3324a, 79-3326 and 79-3378 and K.S.A. 2016 Supp. 50-6a07, 79-3301, 79-3302, 79-3303, 79-3311, 79-3312, 79-3316, 79-3321, 79-3322, 79-3333, 79-3335, 79-3387, 79-3391, 79-3392, 79-3393 and 79-3399 and repealing the existing sections.

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

New Section 1. (a) Notwithstanding any other provision in this act, any person who purchases, possesses, uses or consumes more than 400 cigarettes in this state without the required tax indicia being affixed as herein provided shall be liable for the tax imposed by this act.

(b) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

New Sec. 2. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this act:

(a) “Conviction” or “convicted” includes being convicted of a violation of this act or entering into a diversion or deferred judgment agree-

ment in lieu of further criminal proceedings on a complaint alleging a violation of this act;

(b) “conviction” or “convicted” includes being convicted of a violation of a law of another state or the United States, which prohibits the acts that this act prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law;

(c) only convictions occurring in the immediately preceding five years beginning on July 1, 2017, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense, whichever is applicable; and

(d) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(e) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

Sec. 3. K.S.A. 2016 Supp. 79-3301 is hereby amended to read as follows: 79-3301. As used in K.S.A. 79-3301 et seq., and amendments thereto:

(a) “Act” means the *Kansas cigarette and tobacco products act*.

(b) “Carrier” means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.

~~(b)~~(c) “Carton” means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.

~~(c)~~(d) “Cigarette” means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

~~(d)~~(e) “Conspicuous location or place” means a location or place available to the general public.

(f) “Consumer” means the person purchasing or receiving cigarettes or tobacco products for final use.

~~(e)~~(g) “Contracting entity” means any public or private person, firm or entity that has entered into a contract with the secretary of revenue to provide services.

(h) “Dealer” means any person who engages in the sale or manufacture of cigarettes, tobacco products or electronic cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.

~~(f)~~(i) “Dealer establishment” means any location or premises, other than vending machine locations, at or from which cigarettes, tobacco products or electronic cigarettes are sold, and where records are kept.

~~(g)~~(j) “Director” means the director of taxation.

~~(h)~~(k) “Distributor” means: (1) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale;

(2) any person who makes, manufactures, fabricates or stores tobacco products in this state for sale in this state; or

(3) any person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to any person in the business of selling tobacco products in this state.

~~(i)~~(l) “Division” means the division of taxation.

~~(j)~~(m) “*Electronic cigarette*” means a battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

(n) “Importer” means the same as provided in 26 U.S.C. § 5702(k).

(o) “License” means the privilege of a licensee to sell cigarettes or tobacco products in the state of Kansas, and the written evidence of such authority or privilege as issued by the director.

~~(k)~~(p) “Licensee” means any person holding a current license issued pursuant to this act.

~~(h)~~(q) “*Manufacturer*” means the same as provided in 26 U.S.C. § 5702(d).

(r) “Manufacturer’s salesperson” means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers.

~~(m)~~ “*Meter imprints*” means tax indicia applied by means of ink printing machines.

~~(n)~~(s) (1) “Package” means a container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer;

(2) for the purposes of ~~subsections (u), (v) and (w) of K.S.A. 79-3321(v) and (w), and amendments thereto,~~ “package” means the same as provided in 15 U.S.C. § 1332(4).

~~(o)~~(t) “Person” means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise and any combination of individuals.

~~(p)~~(u) “Received” means the coming to rest of cigarettes for sale by any dealer in the state of Kansas.

~~(q)~~(v) “Retail dealer” or “retailers” means a person, other than a vending machine operator, in possession of cigarettes or electronic cigarettes for the purpose of sale to a consumer.

~~(r)~~(w) “Sale” means any transfer of title or possession or both,

exchange, barter, distribution or gift of cigarettes ~~or tobacco products,~~ *tobacco products or electronic cigarettes*, with or without consideration.

~~(s)~~(x) “Sample” means cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

~~(t)~~(y) “Self-service display” means a display that contains cigarettes or tobacco products and is located in an area openly accessible to a retail dealer’s consumers, and from which such consumers can readily access cigarettes or tobacco products without the assistance of a salesperson, *and which is knowingly utilized by the retail dealer to market and sell cigarettes and tobacco products to consumers*. A display case that holds cigarettes or tobacco products behind locked doors does not constitute a self-service display.

~~(u)~~(z) “Stamps” means tax indicia applied ~~either by means of water applied gummed paper or~~ heat process, *pressure or any other process approved by the director*.

~~(v)~~(aa) “Tax indicia” means visible evidence of tax payment in the form of stamps ~~or meter imprints~~.

~~(w)~~(bb) “Tobacco products” means cigars, cheroots, stogies, pe-riques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes.

~~(x)~~(cc) “~~Tobacco specialty~~ *specialty store*” means a dealer establishment that derives at least ~~75~~ 65% of such dealer establishment’s revenue from cigarettes or tobacco products.

~~(y)~~(dd) “Vending machine” means any coin operated machine, contrivance or device, by means of which merchandise may be sold.

~~(z)~~(ee) “Vending machine distributor” means any person who sells cigarette vending machines to a vending machine operator operating vending machines in the state of Kansas.

~~(aa)~~(ff) “Vending machine operator” means any person who places a vending machine, owned, leased or operated by such person, at locations where cigarettes are sold from such vending machine. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine, nor shall the owner or lessee, or any employee or agent of the owner or lessee be considered an authorized agent of the vending machine operator, if the owner or lessee does not own or lease the machine and the owner’s or lessee’s sole remuneration from the machine is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, or a combination of both.

~~(bb)~~(gg) “Wholesale dealer” means any person who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and manufacturer’s salespersons for the purpose of resale in the state of Kansas.

~~(cc)~~(hh) “Wholesale sales price” means the original net invoice price for which a manufacturer sells a tobacco product to a distributor, as shown by the manufacturer’s original invoice.

~~(dd)~~ “Importer” means the same as provided in 26 U.S.C. § 5702(l).

~~(cc)~~ “Manufacturer” means the same as provided in 26 U.S.C. § 5702(d).

~~(ff)~~ “Electronic cigarette” means a battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems.

Sec. 4. K.S.A. 2016 Supp. 79-3302 is hereby amended to read as follows: 79-3302. (a) K.S.A. 79-3301 through 79-3304, 79-3306, 79-3309, 79-3310, 79-3311, 79-3312, 79-3312a, 79-3313, 79-3316, 79-3321, 79-3322, 79-3323, 79-3324a, 79-3326, 79-3328, 79-3329, 79-3333, 79-3335, 79-3371, 79-3373, 79-3374, 79-3375, 79-3377, 79-3378, 79-3379, 79-3387, 79-3388, 79-3391, 79-3392, 79-3393, 79-3394 and K.S.A. 2016 Supp. 79-3395 through ~~79-3398~~ 79-3399, *section 1, section 2 and section 24*, and amendments thereto, shall be known and may be cited as the Kansas cigarette and tobacco products act.

(b) It is the purpose and intent of this act to regulate the sale of cigarettes and tobacco products in this state and to impose a tax thereon.

Sec. 5. K.S.A. 2016 Supp. 79-3303 is hereby amended to read as follows: 79-3303. (a) Each person engaged in the business of selling cigarettes or electronic cigarettes in the state of Kansas and each vending machine distributor shall obtain a license as provided by this act. A separate application, license and fee is required for each dealer establishment owned or operated by a dealer. A vending machine operator is required to obtain a vending machine operator’s master license and, in addition, a separate permit for each vending machine operated by the operator. A vending machine operator may submit one application for the vending machine operator’s master license and all permits for vending machines operated by the operator. The license shall be displayed in the dealer establishment and the vending machine permit shall remain securely and visibly attached to the vending machine and contain such information as the director may require. Any vending machine found without such permit attached to the machine shall be sealed by an agent of the director and such seal shall be removed only by an agent of the director after payment of the permit fee and the penalties provided by this act.

(b) The application for a vending machine operator’s master license and vending machine permits shall list the brand name and serial number



of each machine and such other information as required by the director. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any officer or employee of the division to divulge or make known in any way the location of any vending machine to any person not an officer or employee of the division *or contracting entity of the division, where the division has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality*, except that such information may be divulged to any law enforcement officer for use in the officer's official duties. Any officer ~~or~~, employee *or contracting entity* revealing any such location in violation of this provision, in addition to the penalties otherwise provided in this act, shall be dismissed from office.

(c) A vending machine operator, in the course of business as a vending machine operator, may dispose of or sell vending machines without securing a license to sell vending machines. The vending machine operator may move vending machines from one location to another and, if a vending machine becomes inoperative or is disposed of, the permit for such machine may be transferred to another machine. A vending machine operator, within 10 days, shall notify the director of the brand name and serial number of vending machines that become inoperative or that the operator disposes of, sells, acquires or brings into service in this state as additional machines.

(d) The key to the lower or storage compartment of a vending machine shall remain only in the possession of the vending machine operator or the operator's authorized agent. All services connected with the operation of a vending machine shall be performed by the vending machine operator or the operator's authorized agent. All vending machines shall be subject to inspection by the director or the director's authorized agents. No permit shall be issued for a vending machine unless it is constructed so that at least one package of each vertical column of cigarettes located therein is visible showing tax indicia.

(e) All vending machines operated on military installations shall have a permit affixed to the machines and the cigarettes shall show tax indicia of the Kansas tax.

(f) On or before the 10<sup>th</sup> day of each month, each vending machine distributor shall report to the director, on forms provided by the director, all sales of cigarette vending machines by the distributor to persons in the state of Kansas during the preceding month; the name and address of the purchaser; and the brand name, serial number and sale price of the machines.

(g) Concurrently with a change in ownership of a dealer establishment the license applicable to the establishment is void and shall be surrendered to the director and shall not be transferred. On removal of a dealer establishment from one location to another, the owner of the establishment shall notify the director and surrender the owner's license.

The director shall issue a new license for the unexpired term of the surrendered license on payment of a fee of \$2. If a dealer's license is lost, stolen or destroyed, the director may issue a new license on proof of loss, theft or destruction, at a cost of \$2. The director shall remit all moneys received 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 state general fund.

Sec. 6. K.S.A. 79-3304 is hereby amended to read as follows: 79-3304. (a) The license fee for each biennium or portion thereof shall be as follows:

- (1) For retail dealer's license, \$25 for each dealer establishment.
- (2) For retailer's license on railroad or sleeping cars, \$50. Only one retail license need be obtained by each railroad or sleeping car company to permit the sale of cigarettes on any or all of its cars within the state.
- (3) For show, carnival or catering license, \$50 for each concession.
- (4) For resident retail dealer's temporary license for a place of business of a temporary nature, \$2 for each seven days or portion thereof.
- (5) For wholesale dealer's license, \$50 for each dealer establishment. No wholesale dealer's license shall be issued until the person applying therefor has filed with the director a bond payable to the state of Kansas in such an amount as shall be fixed by the director, but in no event less than \$1,000, with a corporate surety authorized to do business in the state of Kansas, and approved by the director. If a wholesale dealer is unable to secure a corporate surety bond, the director may issue a license to such wholesale dealer, upon the wholesale dealer furnishing a personal bond meeting the approval of the director. Such bond shall be conditioned on the wholesale dealer's compliance with all the provisions of this act during the license period.

(6) For vending machine distributor's license, \$50.

(7) For manufacturer's salesperson license, \$20 for each salesperson. The manufacturer's salesperson shall, with respect to each sale made to a retail dealer, make and deliver to the retail dealer a true invoice wherein such salesperson shall insert the name of the wholesale dealer from whom such salesperson secured such cigarettes, together with such salesperson's own name and the name of the retail dealer purchasing the cigarettes.

(8) For vending machine operator's license, no fee.

(9) For vending machine permit, \$25 for each permit.

(b) An application for any license required under the provisions of this act may be refused to: (1) A person who is not of good character and reputation in the community in which such person resides; or (2) a person who has been convicted of a felony or of any crime involving moral turpitude or of the violation of any law of any state or the United States pertaining to cigarettes or tobacco products and who has not completed

the sentence, parole, probation or assignment to a community correctional services program imposed for any such conviction within two years immediately preceding the date of making application for any of such licenses.

(c) *The director may refuse to issue or renew a license to any person who:*

(1) *Has been convicted on or after January 1, 2013, of a felony under the laws of this state or any other state or the United States;*

(2) *is not current in the payment of any tax or fine under this act;*

(3) *has had a cigarette license revoked in this state or any other state;*

(4) *is not at least 18 years of age;*

(5) *intends to carry on the business as an agent of another;*

(6) *at the time of application for renewal of any license issued under this act, would not be eligible for the license upon first application;*

(7) *does not own the premises for which a license is sought, or does not, at the time of the application, have a written lease;*

(8) *has been convicted of a crime involving any tax under this act;*

(9) *is a corporation in which any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director or stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:*

(A) *Has had a license revoked under this act; or*

(B) *has been convicted of a crime involving any tax under this act; or*

(10) *is a limited liability company in which any officer, manager or director thereof, or any member owning in the aggregate more than 5% of the limited liability company, has been an officer, manager or director or stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:*

(A) *Has had a license revoked under this act; or*

(B) *has been convicted of a crime involving any tax under this act.*

Sec. 7. K.S.A. 79-3309 is hereby amended to read as follows: 79-3309.

(a) Whenever the director has reason to believe that any person licensed under this act has violated any of the provisions of this act, *in any of the following ways*, the director shall notify the person by certified mail of the director's intention to suspend or revoke the person's license or licenses, *if the person:*

(1) *Has been convicted on or after January 1, 2013, of a felony under the laws of this state or any other state or the United States;*

(2) *is not current in the payment of any tax or fine under this act;*

(3) *has had a cigarette license revoked in this state or any other state;*

(4) *is not at least 18 years of age;*

(5) *intends to carry on the business as an agent of another;*

(6) *at the time of application for renewal of any license issued under this act, would not be eligible for the license upon first application;*

(7) *does not own the premises for which a license is sought, or does not, at the time of the application, have a written lease;*

(8) *has been convicted of a crime involving any tax under this act;*

(9) *in the case of a corporation, any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director or stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:*

(A) *Has had a license revoked under this act; or*

(B) *has been convicted of a crime involving any tax under this act; or*

(10) *in the case of a limited liability company, any officer, manager or director thereof, or any member owning in the aggregate more than 5% of the limited liability company, has been an officer, manager or director or stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:*

(A) *Has had a license revoked under this act; or*

(B) *has been convicted of a crime involving any tax under this act.*

(b) ~~Within 10~~ 30 days after the mailing of the notice, the person may request a hearing in writing before the director. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If, after such hearing, it appears to the satisfaction of the director that the person has violated any of the provisions of this act, the director is hereby authorized and empowered to suspend or revoke the person's license or licenses and may in addition deny the application of the person for a license or licenses for a portion of the succeeding calendar year for such period as the director determines is necessary, but in no case for a period ending more than one year following the date upon which the license or licenses were suspended or revoked. The suspension or revocation of a vending machine operator's master license shall suspend or revoke all vending machine permits issued to the vending machine operator for the term of the license suspension or revocation.

~~(b)(c)~~ (c) If a person continues to engage in activities requiring a license under this act after having notice or knowledge of the suspension or revocation of the person's license or licenses or after becoming more than 10 days delinquent in *filing a bond payable to the state of Kansas as required by the director*, payment of any *fine*, tax, penalty or interest imposed pursuant to this act, the state shall be entitled, in any proceedings brought for such purposes, to have an order and judgment restraining and enjoining such unlawful sale and no bond shall be required for the issuance of any such restraining order or injunction.

Sec. 8. K.S.A. 2016 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax

payment to be affixed to each package of cigarettes as provided by this act. ~~The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and~~ Stamps applied by the heat process ~~and meter imprints~~ shall be supplied to wholesale dealers *in good standing with the director at the time of purchase* at a discount of 0.55% on and after July 1, 2015, and thereafter, from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps ~~or meter imprints~~ 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. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps ~~or tax meter imprints~~ required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax ~~meter imprints~~ stamps upon original packages of cigarettes and is charged with the duty of regulating the use of tax ~~meters~~ stamps to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax ~~meter imprints~~ stamps to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax ~~meter imprints~~ stamps to original packages of cigarettes, the director shall require such

dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of ~~imprinting tax meter imprints~~ *affixing tax stamps* upon original packages of cigarettes. ~~All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter.~~

A licensed wholesale dealer may, for the purpose of sale in another state, transport cigarettes not bearing Kansas indicia of tax payment through the state of Kansas provided such cigarettes are contained in sealed and original cartons.

Sec. 9. K.S.A. 2016 Supp. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps ~~or meter imprints~~ that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less 0.55% thereof if such stamps ~~or meter imprints~~ have been purchased from the director *and are whole, complete stamps*. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less 0.55% of such tax.

Sec. 10. K.S.A. 2016 Supp. 79-3316 is hereby amended to read as follows: 79-3316. (a) All purchases of cigarettes by any dealer shall be evidenced by an invoice, a duplicate of which shall be furnished *to* the party receiving the cigarettes from any dealer.

(b) Purchases of cigarettes by wholesale dealers shall be made from the manufacturers of cigarettes or from other Kansas licensed wholesale dealers. Purchases of cigarettes by retail dealers or vending machine operators shall be from wholesale dealers.

(c) All invoices issued by wholesale dealers shall be in duplicate and a copy must accompany the consigned cigarettes. Cigarettes sold by a wholesale dealer to any other dealer shall be evidenced by invoices bearing the vendee's name and license number. A wholesale dealer selling cigarettes to a manufacturer's salesperson shall at the time of delivery of same make a true duplicate invoice, inserting therein the name of the

salesman together with the name of such salesperson's employer, *except that for an outlet, or fuel outlet or fuel center owned by the same entity, separate invoices are not required if cigarettes are sold from the fuel outlet owned by the same entity.*

(d) All records pertaining to sales of cigarettes by dealers in the state of Kansas shall be preserved for a period of three years and shall be available for inspection by the director or the director's designee at the dealer's place of business or, if the dealer has more than one place of business in the state, at a central location of the dealer.

(e) Every wholesale dealer shall report to the director on or before the 10<sup>th</sup> day of each month, stating the amount of cigarettes sold during the preceding month and the amount of all cigarettes returned to the manufacturer. Any wholesale dealer who refuses any shipment or part of a shipment of unstamped cigarettes or has a shortage in the shipment of cigarettes consigned to such dealer shall in the monthly report next following the refusal or shortage report to the director the number of packages or cartons of cigarettes refused or short and the name of the carrier from whom the cigarettes were refused or shortage occurred. Such report shall be ~~made on forms provided~~ *filed electronically in the manner prescribed by the director* ~~and shall contain such other information as the director may require.~~

(f) Exemption from payment of cigarette tax on sale of cigarettes made outside the state by any wholesale dealer shall be filed on forms provided by the director.

Sec. 11. K.S.A. 2016 Supp. 79-3321 is hereby amended to read as follows: 79-3321. It shall be unlawful for any person:

(a) ~~To possess.~~ Except as otherwise specifically provided by this act, *to possess, sell, transport, import, distribute, wholesale or manufacture* more than ~~200~~ *1,000* cigarettes without the required tax indicia being affixed as herein provided.

(b) To mutilate or attach to any individual package of cigarettes any stamp that has in any manner been mutilated or that has been heretofore attached to a different individual package of cigarettes or to have in possession any stamps so mutilated.

(c) To prevent the director or any officer or agent authorized by law, to make a full inspection for the purpose of this act, of any place of business and all premises connected thereto where cigarettes are or may be manufactured, sold, distributed, or given away.

(d) To use any artful device or deceptive practice to conceal any violation of this act or to mislead the director or officer or agent authorized by law in the enforcement of this act.

(e) Who is a dealer to fail to produce on demand of the director or any officer or agent authorized by law any records or invoices required to be kept by such person.

(f) Knowingly to make, use, or present to the director or agent thereof any falsified invoice or falsely state the nature or quantity of the goods invoiced.

(g) Who is a dealer to fail or refuse to keep and preserve for the time and in the manner required by this act all the records required by this act to be kept and preserved.

(h) To wholesale cigarettes to any person, other than a manufacturer's salesperson, retail dealer or wholesaler who is:

(1) Duly licensed by the state where such manufacturer's salesperson, retail dealer or wholesaler is located; or

(2) exempt from state licensing under applicable state or federal laws or court decisions including any such person operating as a retail dealer upon land allotted to or held in trust for an Indian tribe recognized by the United States bureau of Indian affairs.

(i) To have in possession any evidence of tax indicia provided for herein not purchased from the director.

(j) To fail or refuse to permit the director or any officer or agent authorized by law to inspect a carrier transporting cigarettes.

(k) To vend small cigars, or any products so wrapped as to be confused with cigarettes, from a machine vending cigarettes, nor shall a vending machine be so built to vend cigars or products that may be confused with cigarettes, be attached to a cigarette vending machine.

(l) To sell, furnish or distribute cigarettes, electronic cigarettes or tobacco products to any person under 18 years of age.

(m) Who is under 18 years of age to purchase or attempt to purchase cigarettes, electronic cigarettes or tobacco products.

(n) Who is under 18 years of age to possess or attempt to possess cigarettes, electronic cigarettes or tobacco products.

(o) To sell cigarettes to a retailer or at retail that do not bear Kansas tax indicia or upon which the Kansas cigarette tax has not been paid.

(p) To sell cigarettes without having a license for such sale as provided herein.

(q) To sell a vending machine without having a vending machine distributor's license.

(r) Who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's establishment the following notice: "By law, cigarettes, electronic cigarettes and tobacco products may be sold only to persons 18 years of age and older."

(s) To distribute samples within 500 feet of any school when such facility is being used primarily by persons under 18 years of age unless the sampling is:

(1) In an area to which persons under 18 years of age are denied access;

(2) in or at a retail location where cigarettes and tobacco products are the primary commodity offered for sale at retail; or



(3) at or adjacent to an outdoor production, repair or construction site or facility.

(t) To sell cigarettes, electronic cigarettes or tobacco products by means of a vending machine, *including vending machines that sell packaged, single cigarettes*, in any establishment, or portion of an establishment, which is open to minors, except that this subsection shall not apply to:

(1) The installation and use by the proprietor of the establishment, or by the proprietor's agents or employees, of vending machines behind a counter, or in some place in such establishment, or portion thereof, to which minors are prohibited by law from having access; *or*

(2) the installation and use of a vending machine in a commercial building or industrial plant, or portions thereof, where the public is not customarily admitted and where machines are intended for the sole use of adult employees employed in the building or plant; ~~or~~

~~(3) a vending machine which has a lock-out device which is inoperable in the continuous standby mode and which requires manual activation by the person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine.~~

(u) To sell cigarettes, electronic cigarettes or tobacco products by means of a self-service display in any establishment, except that the provisions of this subsection shall not apply to:

(1) A vending machine that is permitted under subsection (t); ~~or~~

(2) a self-service display that is located in a tobacco specialty store; *or*

(3) *a self-service display located in a facility where the retailer ensures that no person younger than 18 years of age is present or permitted to enter at any time.*

(v) To sell or distribute in this state; to acquire, hold, own, possess or transport for sale or distribution in this state; or to import or cause to be imported, into this state for sale or distribution in this state:

(1) Any cigarettes the package of which: (A) Bears any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to, labels stating "For Export Only," "U.S. Tax-Exempt," "For Use Outside U.S." or similar wording; or (B) does not comply with: (i) All requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged or imported for sale, distribution or use in the United States, including but not limited to the precise warning labels specified in the federal cigarette labeling and advertising act, 15 U.S.C. § 1333; and (ii) all federal trademark and copyright laws;

(2) any cigarettes imported into the United States in violation of 26 U.S.C. § 5754 or any other federal law, or federal regulations implementing such laws;

(3) any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed or used in the United States; or

(4) any cigarettes for which there has not been submitted to the secretary of the U.S. department of health and human services the list or lists of the ingredients added to tobacco in the manufacture of such cigarettes required by the federal cigarette labeling and advertising act, 15 U.S.C. § 1335a.

(w) To alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(1) Any statement, label, stamp, sticker or notice described in subsection (v); or

(2) any health warning that is not specified in, or does not conform with, the requirements of, the federal cigarette labeling and advertising act, 15 U.S.C. § 1333.

(x) To affix any stamp required pursuant to K.S.A. 79-3311, and amendments thereto, to the package of any cigarettes described in subsection (v) or altered in violation of subsection (w).

(y) *To possess, sell, transport, import, distribute, wholesale or manufacture cigarettes, smokeless tobacco or roll-your-own tobacco in violation of K.S.A. 50-6a01 et seq., and amendments thereto.*

(z) *To sell cigarettes, smokeless tobacco or roll-your-own tobacco in any manner that is not a direct, face-to-face exchange between the retailer and the consumer, except: (1) Mail-order sales, which shall not include mail-order redemption coupons and distribution of free samples through the mail; (2) vending machines as provided in subsection (t); and (3) self-service displays as provided in subsection (u).*

Sec. 12. K.S.A. 2016 Supp. 79-3322 is hereby amended to read as follows: 79-3322. (a) ~~Any person who violates any of the provisions of the Kansas cigarette and tobacco products act, (1) Except as otherwise provided in this act, shall be guilty of a violation of K.S.A. 79-3321(a), (c), (d), (f), (h), (i), (j), (v), (w), (x) or (y), and amendments thereto, is a:~~

(A) *Class A misdemeanor for a first violation, and the offender shall be fined not less than \$1,000 nor more than \$2,500 upon a first conviction;*

(B) *severity level 6, nonperson felony for a second violation, and the offender shall be fined not less than \$50,000 nor more than \$100,000 upon a second conviction; and*

(C) *severity level 6, nonperson felony for a third and all subsequent violations, and the offender shall be fined \$100,000 upon a third and all subsequent convictions.*

(2) *It shall be a defense to prosecution under K.S.A. 79-3321(a), and amendments thereto, that a licensee has: (A) Segregated the cigarettes from public view; (B) marked the cigarettes as not for retail sale to consumers; and (C) within 72 hours of receipt, notified the licensee's whole-*

*sale dealer, in writing, that the cigarettes do not bear indicia of Kansas tax and that the wholesale dealer shall remove the cigarettes from the licensee's premises.*

*(b) Except as provided in subsections (a), (c) or (d), a violation of K.S.A. 79-3321, and amendments thereto, is a class B misdemeanor and upon conviction, an offender shall be punished by a fine of fined not less than \$500 nor more than \$1,000 or imprisonment imprisoned for not more than one year, or by both for each separate violation. In addition thereto any person found liable for any license fee or tax imposed under the provisions of this act shall be personally liable for such license fee or tax plus a penalty in an amount equal to 100% thereof.*

~~(b)~~(c) (1) It is a class B person misdemeanor punishable by a minimum fine of \$200 for any person to: (A) Sell, give or furnish any cigarettes or tobacco products to any person under 18 years of age; or (B) buy any cigarettes or tobacco products for any person under 18 years of age.

(2) It shall be a defense to a prosecution under this subsection if: (A) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples; (B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person under 18 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes or tobacco products; and (C) to purchase or receive the cigarettes or tobacco products, the person under 18 years of age exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes or tobacco products.

(3) It shall be a defense to a prosecution under this subsection if: (A) The defendant engages in the lawful sale, furnishing or distribution of cigarettes or tobacco products by mail; and (B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601, and amendments thereto, that the person was 18 or more years of age.

(4) For purposes of this subsection the person who violates this subsection shall be the individual directly selling, furnishing or distributing the cigarettes or tobacco products to any person under 18 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.

~~(c)~~(d) Violation of ~~subsection (m) or (n)~~ of K.S.A. 79-3321(m) or (n), and amendments thereto, is a cigarette or tobacco infraction for which the fine is \$25. In addition, the judge may require the juvenile to appear in court with a parent or legal guardian.

~~(d)~~(e) Any agent, employees or others who aid, abet or otherwise participate in any way in the violation of the Kansas cigarette and tobacco

products act or in any of the offenses hereunder punishable shall be guilty and punished as principals to the same extent as any person violating this act.

(f) *The secretary of revenue or the secretary's authorized agent may refer such evidence as may be available concerning violations of this act or any rules and regulations or order hereunder to the attorney general or the proper county or district attorney, who may in the prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the department of revenue prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the secretary or the secretary's authorized agent, such employee shall be appointed a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney. If an attorney employed by the secretary or secretary's authorized agent acts as a special prosecutor, the secretary may pay extradition and witness expenses associated with the case.*

Sec. 13. K.S.A. 79-3323 is hereby amended to read as follows: 79-3323. (a) *Except as provided in subsection (c), the following are declared to be common nuisances and contraband:*

(1) *All packages of cigarettes, in quantities of 20 packages or more, not bearing indicia of tax payment as required in this act and all devices for vending cigarettes in which unstamped packages are found;*

(2) *all packages of cigarettes, in quantities of 20 packages or more, not bearing indicia of tax payment as required by any compact between:*

(A) *The governor and the Prairie Band Potawatomi Nation and approved by the legislature; (B) the governor and the Iowa Tribe of Kansas and Nebraska and approved by the legislature; (C) the governor and the Kickapoo Tribe in Kansas and approved by the legislature; or (D) the governor and the Sac and Fox Nation of Missouri in Kansas and Nebraska and approved by the legislature;*

~~(4)(3)~~ *all cigarettes or tobacco products in the possession of a minor;*  
~~and~~

(4) *cigarettes, smokeless tobacco or roll-your-own tobacco in violation of K.S.A. 50-6a01 et seq., and amendments thereto; and*

~~(3)(5)~~ *all property, other than including vehicles, used in the retail sale, transportation, distribution, importation, wholesale or manufacture of unstamped packages of cigarettes.*

Cigarettes in vending machines and exposed to view not showing indicia of tax payment required by this act to be visible from the outside of the vending machine shall be presumed to be unstamped.

(b) Any cigarettes or property constituting a common nuisance and contraband as provided by this section may be seized by the director or the director's authorized agent or any duly constituted peace officer with or without process or warrant and shall be subject to forfeiture as provided in this act. The party making the seizure shall deliver to the owner of the property and to the person or persons found in possession of the property a receipt stating from whom the property was seized, the place of seizure and a description and the brand of the property seized. A duplicate of the receipt shall be filed in the office of the director and shall be open for public inspection.

(c) *Cigarettes in quantities of 1,000 or less in the possession of a licensee are not declared a common nuisance and contraband if the licensee has: (1) Segregated the cigarettes from public view; (2) marked the cigarettes as not for retail sale to consumers; and (3) within 72 hours of receipt, notified the licensee's wholesale dealer, in writing, that the cigarettes do not bear indicia of Kansas tax and that the wholesale dealer shall remove the cigarettes from the licensee's premises.*

Sec. 14. K.S.A. 79-3324a is hereby amended to read as follows: 79-3324a. (a) *All of the cigarettes and property seized by the director or the director's authorized agent shall first be listed and appraised by the person making the seizure, and turned over to the director and a receipt taken. The person making the seizure shall immediately make and file a written report showing the name of the person making the seizure, the place where, and the person from whom the property was seized, and inventory and appraisal thereof, at the usual and ordinary wholesale price of the articles received by the director of taxation. The director shall institute forfeiture proceedings within the department of revenue in the name of the state of Kansas, as plaintiff, and in the name of the owner or person in possession, as defendant, if known, and if unknown, in the name of the property seized. The director shall issue notice to the owner or person in whose possession such property was found, directing such person to answer within 10 days. The forfeiture hearing under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If the property is declared forfeited and ordered sold, notice of the sale shall be posted in the official newspaper of Shawnee county, Kansas, not less than 10 days before the date of the sale, except that cigarettes shall be withheld from public sale and shall be sold by the director of taxation to the manufacturer of such cigarettes or to a licensed distributor and the purchase price shall be paid to the director of taxation and treated as cigarette tax collected. After deducting all costs incurred in the seizure, forfeiture and sale of all contraband, including cigarettes*

*and property seized by the director or by the director's authorized agent, pursuant to this subsection, all such proceeds shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund created by K.S.A. 79-3391, and amendments thereto, and such proceeds shall be used exclusively for cigarette and tobacco products regulation and enforcement, and not for any other purpose.*

(b) All of the cigarettes and property seized by officers of the state of Kansas, other than the director or the director's authorized agent, shall first be listed and appraised by the officer making the seizure, and turned over to the county sheriff of the county in which the seizure is made and a receipt therefor taken. The person making the seizure shall immediately make and file a written report thereof showing the name of the person making the seizure, the place where, and the person from whom the property was seized, and inventory and ~~appraisal~~ appraisal thereof, at the usual and ordinary wholesale price of the articles received to the director of taxation. The county or district attorney of the county in which the seizures are made may, at the request of the director, file in the district court forfeiture proceedings in the name of the state of Kansas, as plaintiff, and in the name of the owner or person in possession, as defendant, if known, and if unknown in the name of the property seized. The clerk of the court shall issue summons to the owner or person in whose possession such property was found, directing ~~him or her~~ such person to answer within ~~ten~~(10) days. If the property is declared forfeited and ordered sold, notice of the sale shall be posted in five ~~(5)~~ public places in the county not less than ~~ten~~(10) days before the date of the sale, except that cigarettes shall be withheld from public sale and shall be sold by the director of taxation to the manufacturer of such cigarettes or to a licensed distributor and the purchase price shall be paid to the director of taxation and treated as cigarette tax collected. The proceeds of any public sale shall be deposited with the clerk of the court, who shall, after deducting costs, including the costs of the sale, pay the balance to the treasurer of the county wherein ~~said~~ the sale is constructed. ~~Said~~ The treasurer shall credit the entire amount ~~thereof~~ to the county general fund.

~~(b)~~(c) The seizure and sale of the cigarettes shall not relieve the person from whom the cigarettes were seized from any prosecution on the payment of any penalties provided for under the provisions of K.S.A. 79-3301 et seq., and amendments thereto; nor shall it relieve the purchaser ~~thereof~~ from any payment of the regular cigarette tax and the placing of proper stamps thereon before making any sale of the cigarettes or the personal consumption of the same.

~~(c)~~(d) The forfeiture provisions of this act shall only apply to persons having possession of or transporting cigarettes with intent to barter, sell

or give away the same. The possession of cigarettes in any quantity of more than ~~two (2) five~~ cartons, ~~twenty (20) 50~~ packages or ~~four hundred (400) 1,000~~ cigarettes, not bearing indicia of tax payment as required by the provisions of K.S.A. 79-3301 et seq., and amendments thereto, shall be prima facie evidence of intent to barter, sell or give away the cigarettes in violation of the provisions of K.S.A. 79-3301 et seq., and amendments thereto.

Sec. 15. K.S.A. 79-3326 is hereby amended to read as follows: 79-3326. The director of taxation shall administer and enforce the provisions of this act, *and to require such reports, make such investigations and take such other action as the director deems necessary or suitable to that end. For the purpose of ascertaining the correctness of any return or making an estimate of the tax due for any taxpayer or person, the director or the director's designee has the power to examine any books, papers, records or memoranda bearing upon the matters required to be included in the return or report.* The secretary of revenue shall adopt rules and regulations for the administration of this act. For the purpose of enforcing this act the director may call to the director's aid any law enforcement officer of this state to prosecute all violators of any of the provisions of this act. The police of any city shall have the right to inspect all premises, records and invoices pertaining to the wholesale distribution, retail sale or sampling of cigarettes or tobacco products within the city at all reasonable times. All agents and representatives designated by the director are hereby invested with all the powers of peace and police officers within the state of Kansas in the enforcement of the provisions of this act throughout the state.

Sec. 16. K.S.A. 2016 Supp. 79-3333 is hereby amended to read as follows: 79-3333. (a) Each person engaged in the business of selling cigarettes, *smokeless tobacco or roll-your-own tobacco* to persons who reside in Kansas shall obtain a license as provided by the Kansas cigarette and tobacco products act.

(b) All cigarettes sold to persons who reside in Kansas shall have a valid Kansas cigarette tax stamp affixed to each package.

(c) All ~~retail cigarette~~ dealers, whether located in or outside the state of Kansas, shall have a registration certificate as provided in K.S.A. 79-3608, and amendments thereto, and be subject to the provisions of the Kansas retailers' sales tax act. Each ~~licensed retail cigarette dealer licensee~~ *or other person* selling cigarettes, *smokeless tobacco or roll-your-own tobacco* over the internet, telephone or other mail order transaction shall file all sales tax returns and remit taxes owed pursuant to K.S.A. 79-3607, and amendments thereto.

(d) All sales transactions over the internet, telephone or other mail order transaction shall not be completed, unless, before each delivery of cigarettes, *smokeless tobacco or roll-your-own tobacco* is made, whether

through the mail, through a transportation company or any other delivery system, the seller has obtained from the purchaser a certification that includes a reliable confirmation that the purchaser is at least the legal minimum age to purchase *cigarettes, smokeless tobacco or roll-your-own tobacco*; that the *cigarettes or tobacco products* purchased are not intended for consumption by an individual who is younger than the legal minimum age to purchase *cigarettes, smokeless tobacco or roll-your-own tobacco*; and a written statement signed by the purchaser that certifies the purchaser's address and that the purchaser is at least the minimum legal age to purchase *cigarettes, smokeless tobacco or roll-your-own tobacco*. Such statement shall also confirm: (1) That the purchaser understands that signing another person's name to such certification is illegal; (2) that the sale of *cigarettes, smokeless tobacco or roll-your-own tobacco* to individuals under the legal minimum purchase age is illegal; and (3) that the purchase of *cigarettes, smokeless tobacco or roll-your-own tobacco* by individuals under the legal minimum purchase age is illegal under the laws of Kansas.

(e) The retail cigarette dealer shall verify the information contained in the certification provided by the purchaser against a commercially available database of governmental records, or obtain a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the purchaser.

(f) All invoices, bills of lading, sales receipts and any other document related to the sale of *cigarettes, smokeless tobacco or roll-your-own tobacco* through the internet or other mail order transaction shall contain the current, valid retailer Kansas cigarette, *smokeless tobacco or roll-your-own tobacco* dealer license number, Kansas sales tax registration number, business name and address of the seller.

(g) All packages of cigarettes shipped from a cigarette dealer to purchasers who reside in Kansas shall clearly print the package with the word "CIGARETTES" on all sides of the package. In addition, such package shall contain an externally visible and easily legible notice located on the same side of the package as the address to which the package is delivered as follows:

"IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM A SELLER LOCATED OUTSIDE OF THE STATE IN WHICH YOU RESIDE, THE SELLER HAS REPORTED PURSUANT TO FEDERAL LAW THE SALE OF THESE CIGARETTES TO YOUR STATE TAX COLLECTION AGENCY, INCLUDING YOUR NAME AND ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE UNPAID STATE TAXES ON THESE CIGARETTES."

(h) ~~The provisions of this section shall not apply to tobacco products, as defined in K.S.A. 79-3301, and amendments thereto.~~ (1) *Each retail dealer that sells cigarettes to Kansas consumers without indicia of Kansas*



tax shall file an annual statement for each consumer to the department of revenue on such forms as are provided or approved by the department to the director for all Kansas consumers by March 1 of each year showing such information as the Kansas department of revenue shall require by rules and regulations, including the: (A) Name and address of such Kansas consumer; (B) the date of purchase; and (C) the total number of packs of cigarettes purchased by such Kansas consumer made from the retail dealer in the previous calendar year.

(2) The director may require any retail dealer that sells cigarettes to Kansas consumers without indicia of Kansas tax of more than \$100,000 in a calendar year to file the annual statement described in paragraph (1) by electronic format, including magnetic media or another machine-readable form for that year.

(3) Failure to file the annual statement required in paragraph (1) shall subject the retailer dealer to a penalty of \$10 for each consumer that should have been included in such annual statement, unless the retailer shows reasonable cause for such failure.

(i) Except as otherwise provided by this act, a violation of subsection (a), (d), (e) or (h) is a:

(1) Class A misdemeanor for a first violation, and the offender shall be fined not less than \$1,000 nor more than \$2,500 upon a first conviction;

(2) severity level 6, nonperson felony for a second violation, and the offender shall be fined not less than \$50,000 nor more than \$100,000 upon a second conviction; and

(3) severity level 6, nonperson felony for a third and all subsequent violations, and the offender shall be fined \$100,000 upon a third and all subsequent convictions.

~~(j) Violation of the provisions of subsection (a), (d) or (e) is a severity level 8, nonperson felony. Each separate violation of any provision of this section, other than the provisions of subsection (a), (d) or (e) is or (h) shall be a class B misdemeanor, and upon conviction shall be punishable by a fine of not the offender shall be fined not less than \$500 nor more than \$1,000 or imprisonment for not more than one year, or both.~~

(k) The secretary of revenue or the secretary's authorized agent may refer such evidence as may be available concerning violations of this act or any rules and regulations or order hereunder to the attorney general or the proper county or district attorney, who may, in the prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the department of revenue prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the secretary or the secretary's authorized agent, such employee shall be appointed as a special prosecutor for the attorney general or the county attorney or district attorney to serve without com-

*compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney. If an attorney employed by the secretary or secretary's authorized agent acts as a special prosecutor, the secretary may pay extradition and witness expenses associated with the case.*

~~(j)~~(l) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

Sec. 17. K.S.A. 2016 Supp. 79-3335 is hereby amended to read as follows: 79-3335. (a) Counterfeit cigarettes shall be seized by the director. For purposes of this section, counterfeit cigarettes includes cigarettes *manufactured, sold, transported, imported, distributed or possessed in this state with intent to deceive consumers and to avoid the provisions of this act, and also includes cigarettes that have false manufacturing labels or packages of cigarettes bearing counterfeit tax stamps. It shall be unlawful for any person to sell, transport, import, distribute, possess, wholesale or manufacture counterfeit cigarettes.*

(b) *Except as otherwise provided by this act, a violation of the provisions of this section shall be a:*

(1) *Class A misdemeanor for a first violation, and the offender shall be fined not less than \$1,000 nor more than \$2,500 upon a first conviction;*

(2) *severity level 6, nonperson felony for a second violation, and the offender shall be fined not less than \$50,000 nor more than \$100,000 upon a second conviction; and*

(3) *severity level 6, nonperson felony for a third and all subsequent violations, and the offender shall be fined \$100,000 upon a third and all subsequent convictions.*

(c) *The secretary of revenue, or the secretary's authorized agent, may refer such evidence as may be available concerning violations of this act or any rules and regulations or order hereunder to the attorney general or the proper county or district attorney, who may in the prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the department of revenue prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the secretary or the secretary's authorized agent, such employee shall be appointed as a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or*

*district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney. If an attorney employed by the secretary or secretary's authorized agent acts as a special prosecutor, the secretary may pay extradition and witness expenses associated with the case.*

(d) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

Sec. 18. K.S.A. 79-3378 is hereby amended to read as follows: 79-3378. (a) On or before the ~~twentieth~~ 20th day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product: (1) Brought, or caused to be brought, into this state for sale; and (2) made, manufactured, or fabricated in this state for sale in this state during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made ~~upon forms furnished and electronically in the manner~~ prescribed by the director. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~four percent (4%)~~ of such liability as compensation to reimburse the distributor for ~~his or her~~ such distributor's expenses incurred in the administration of this act.

(b) As soon as practicable after any return is filed, the director shall examine the return. If the director finds that, in ~~his or her~~ the director's judgment, the return is incorrect and any amount of tax is due from the distributor and unpaid, ~~he or she~~ the director shall notify the distributor of the deficiency. If a deficiency disclosed by the director's examination cannot be allocated by ~~him~~ the director to a particular month or months, ~~he or she~~ the director may nevertheless notify the distributor that a deficiency exists and state the amount of tax due. Such notice shall be given to the distributor by registered or certified mail.

Sec. 19. K.S.A. 2016 Supp. 79-3387 is hereby amended to read as follows: 79-3387. (a) All revenue collected or received by the director from taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(b) All moneys received from license fees, *forfeiture proceeds under K.S.A. 79-3324a, and amendments thereto, and fines* imposed by this act shall be collected by the director and 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 cigarette and tobacco products regulation fund created by K.S.A. 79-3391, and amendments thereto, *and such proceeds shall be used exclusively for cigarette and tobacco products regulation and enforcement, and not for any other purpose.*

Sec. 20. K.S.A. 2016 Supp. 79-3391 is hereby amended to read as follows: 79-3391. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the secretary of revenue or the secretary's designee, upon a finding that a ~~licensee~~ *person* under this act has violated any provision of this act or any provision of any rule and regulation of the secretary of revenue adopted pursuant to this act shall impose on such ~~licensee~~ *person* a civil fine not exceeding \$1,000 for each violation.

(b) It shall be unlawful for any person, directly or indirectly, to: (1) Sell, give or furnish any cigarettes or tobacco products to any person under 18 years of age; or (2) buy any cigarettes or tobacco products for any person under 18 years of age. In determining the fine to be imposed under this subsection by a licensed retail dealer whose employee sold, furnished or distributed the cigarettes or tobacco products, the secretary of revenue or the secretary's designee shall consider it to be a mitigating circumstance if the employee had completed a training program, approved by the secretary of revenue or the secretary's designee, in avoiding sale, furnishing or distributing of cigarettes and tobacco products to persons under 18 years of age.

(c) No fine shall be imposed pursuant to this section except upon the written order of the secretary of revenue or the secretary's designee to the licensee who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee to appeal the order. Such order shall be subject to appeal and review in the manner provided by the Kansas administrative procedure act.

(d) Any fine collected pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund.

(e) There is hereby created, in the state treasury, the cigarette and tobacco products regulation fund. Moneys in the fund shall be expended only for the enforcement of this act and rules and regulations adopted pursuant to this act. Such expenditures 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 revenue or a person designated by the secretary.

(f) If a person violates subsection (b) for a second or subsequent occurrence within a three-year period, the secretary may impose a graduated fine upon such person for the second or subsequent occurrence.

For the purposes of imposing a fine under this section, if three or more years have elapsed since a person has been found to have violated the provisions of subsection (b), such person shall be treated as never having violated subsection (b).

Sec. 21. K.S.A. 2016 Supp. 79-3392 is hereby amended to read as follows: 79-3392. The provisions of K.S.A. 75-5133, 79-3610, 79-3611, 79-3612, 79-3613, 79-3615 and 79-3617, and amendments thereto, relating to the assessment, collection, appeal and administration of the retailers' sales tax, insofar as practical, shall have full force and effect with respect to taxes, *penalties and fines* imposed by this act.

Sec. 22. K.S.A. 2016 Supp. 79-3393 is hereby amended to read as follows: 79-3393. (a) When a person is stopped by a law enforcement officer for a cigarette or tobacco infraction, the law enforcement officer shall prepare and deliver to the person a written cigarette or tobacco citation on a form approved by the secretary of revenue or the secretary's designee. The citation shall contain a notice to appear in court, the name and address of the person, the offense or offenses charged, the time and place when and where the person shall appear in court, the signature of the law enforcement officer and any other pertinent information. The time specified in the notice to appear shall be at least five days after the alleged infraction unless the person charged with the infraction demands an earlier hearing. The place specified in the notice to appear shall be before a judge of the district court within the county where the infraction is alleged to have been committed or before a judge of the municipal court where the infraction is alleged to have been committed in a city which has adopted an ordinance which prohibits the same acts.

(b) The notice to appear may provide that the person charged with the infraction shall appear in court with a parent or legal guardian and shall provide that the person charged has a right to trial.

(c) Acts classified as cigarette or tobacco infractions by ~~subsection (c) of K.S.A. 79-3322(d)~~, and amendments thereto, shall be classified as ordinance cigarette or tobacco infractions by those cities adopting ordinances prohibiting the same acts. The fine for an ordinance cigarette or tobacco infraction shall be \$25.

Sec. 23. K.S.A. 2016 Supp. 50-6a07 is hereby amended to read as follows: 50-6a07. As used in this act:

(a) "Act" means the provisions of K.S.A. 50-6a01 through 50-6a06, and amendments thereto, and the provisions of K.S.A. 2016 Supp. 50-6a07 through 50-6a21, and amendments thereto.

(b) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling

message, recognizable pattern of colors or any other indicia of product identification identical, similar to or identifiable with a previously known brand of cigarettes.

(c) “Cigarette” has the same meaning given that term in K.S.A. 50-6a02(d), and amendments thereto.

(d) “Director” means the director of taxation.

(e) “Indian tribe” means any Indian tribe, band, nation or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under the laws of the United States.

(f) “Master settlement agreement” has the same meaning given that term in K.S.A. 50-6a02(e), and amendments thereto.

(g) “Non-participating manufacturer” means any tobacco product manufacturer that is not a participating manufacturer.

(h) “Participating manufacturer” has the meaning given that term in K.S.A. 50-6a02(i)(1), and amendments thereto.

(i) “Qualified escrow fund” has the same meaning given that term in K.S.A. 50-6a02(f), and amendments thereto.

(j) “Resident agent” means a domestic corporation, a domestic limited partnership, a domestic limited liability company or a domestic business trust or a foreign corporation, a foreign limited partnership, a foreign limited liability company or a foreign business trust authorized to transact business in this state, and which is generally open during regular business hours to accept service of process on behalf of a non-participating manufacturer.

(k) “Retail dealer” has the same meaning given that term in K.S.A. 79-3301(~~e~~), and amendments thereto.

(l) “Stamping agent” means a person who is authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, or any person who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto.

(m) “Tax indicia” has the same meaning given that term in K.S.A. 79-3301(~~tt~~), and amendments thereto.

(n) “Tobacco product manufacturer” has the same meaning given that term in K.S.A. 50-6a02(i), and amendments thereto.

(o) “Qualified tribal land” means:

(1) All land within the borders of this state that is within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of-way running through the reservation;

(2) all dependent Indian communities within the borders of this state;

(3) all Indian allotments within the borders of this state, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments; and

(4) any lands within the borders of this state, the title to which is either held in trust by the United States for the benefit of any Indian tribe or individual, or held by any Indian tribe or individual subject to restriction by the United States against alienation, and over which an Indian tribe exercises governmental power.

(p) “Units sold” has the same meaning given that term in K.S.A. 50-6a02(j), and amendments thereto.

(q) “Vending machine operator” has the same meaning given that term in K.S.A. 79-3301(~~q~~), and amendments thereto.

New Sec. 24. (a) No provisions of this act shall: (1) Be deemed to amend or modify any compact described in K.S.A. 79-3323(a), and amendments thereto; or (2) be enforced in a manner which would cause the state to breach the terms of any compact described in K.S.A. 79-3323(a), and amendments thereto.

(b) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

Sec. 25. K.S.A. 2016 Supp. 79-3399 is hereby amended to read as follows: 79-3399. (a) On and after ~~January~~ *July* 1, 2017, a tax is hereby imposed upon the privilege of selling or dealing in electronic cigarettes in this state by any person engaged in business as a distributor thereof, at the rate of ~~\$.20~~ *\$.05* per milliliter of consumable material for electronic cigarettes and a proportionate tax at the like rate on all fractional parts thereof. For electronic cigarettes in the possession of retail dealers for which tax has not been paid, tax shall be imposed under this subsection at the earliest time the retail dealer: (1) Brings or causes to be brought into this state from without the state electronic cigarettes for sale; (2) makes, manufactures or fabricates electronic cigarettes in this state for sale in this state; or (3) sells electronic cigarettes to consumers within this state.

(b) “*Consumable material*” means any liquid solution or other material that is depleted as an electronic cigarette is used.

(c) The secretary of revenue shall adopt rules and regulations to implement the provisions of this section.

Sec. 26. K.S.A. 79-3304, 79-3309, 79-3323, 79-3324a, 79-3326 and 79-3378 and K.S.A. 2016 Supp. 50-6a07, 79-3301, 79-3302, 79-3303, 79-3311, 79-3312, 79-3316, 79-3321, 79-3322, 79-3333, 79-3335, 79-3387, 79-3391, 79-3392, 79-3393 and 79-3399 are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved June 15, 2017.

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