STATE OF KANSAS

2021 SESSION LAWS OF KANSAS VOL. 1

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

PASSED DURING THE 2021 REGULAR SESSION OF THE LEGISLATURE OF THE STATE OF KANSAS

Date of Publication of this Volume
July 1, 2021

AUTHENTICATION

STATE OF KANSAS
OFFICE OF SECRETARY OF STATE

I, Scott Schwab, 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 2021 regular session of the Legislature of the State of Kansas, begun on the 11th day of January, AD 2021, and concluded on the 26th day of May, AD 2021; 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, AD 2021, except when otherwise provided.

Given under my hand and seal this 1st day of July, AD 2021.

SCOTT SCHWAB
Secretary of State

(SEAL)

EXPLANATORY NOTES

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

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

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

Approval and publication dates are included.

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 The bill index, subject index, and list of statutes repealed or amended will assist you in locating bills of interest.

NOTICE

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Topeka, KS 66612-1594
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Lieutenant Governor	**David Toland**	Iola	Dem.
Secretary of State	**Scott Schwab**	Olathe	Rep.
State Treasurer	**Lynn W. Rogers**	Wichita	Dem.
Attorney General	**Derek Schmidt**	Independence	Rep.
Commissioner of Insurance	**Vicki Schmidt**	Topeka	Rep.

STATE BOARD OF EDUCATION

Dist.	*Name and residence*	*Dist.*	*Name and residence*
1	**Janet Waugh,** Kansas City	6	**Dr. Deena Horst,** Salina
2	**Melanie Haas,** Overland Park	7	**Ben Jones,** Sterling
3	**Michelle Dombrosky,** Olathe	8	**Betty J. Arnold,** Wichita
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5	**Jean Clifford,** Garden City	10	**Jim McNiece,** Wichita

UNITED STATES SENATORS

Name and residence	*Party*	*Term*
Roger Marshall, MD, Great Bend	Republican	term expires Jan. 3, 2027
Jerry Moran, Hays	Republican	term expires Jan. 3, 2023

UNITED STATES REPRESENTATIVES

(Terms expire January 3, 2023)

District	*Name*	*Residence*	*Party*
First	**Tracey Mann**	Salina	Rep.
Second	**Jake LaTurner**	Topeka	Rep.
Third	**Sharice Davids**	Roeland Park	Dem.
Fourth	**Ron Estes**	Wichita	Rep.

LEGISLATIVE DIRECTORY

STATE SENATE

Name and residence	*Party*	*Dist.*
Alley, Larry W., 517 Quail Nest Rd., Winfield 67156	Rep.	32
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*Ronald Ryckman Sr. was sworn in March 10, 2021 to fill the vacancy created by the death of Bud Estes.

HOUSE OF REPRESENTATIVES

Name and residence	*Party*	*Dist.*
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Name and residence	*Party*	*Dist.*
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Ruiz, Louis E., 2914 W. 46th Ave., Kansas City 66103	Dem.	31

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Ryckman Jr., Ron, 14234 W. 158th St., Olathe 66062	Rep.	78
Samsel, Mark, 508 E. 4th St., Wellsville 66092	Rep.	5
Sanders, Clarke, 2096 Leland Way, Salina 67401	Rep.	69
Sawyer, Tom, 1041 S. Elizabeth St., Wichita 67213	Dem.	95
Schreiber, Mark, 1722 Yucca Ln., Emporia 66801	Rep.	60
Seiwert, Joe, 1111 E. Boundary Rd., Pretty Prairie 67570	Rep.	101
Smith, Adam, 1970 Road 3, Weskan 67762	Rep.	120
Smith, Charles, 2112 W. 4th, Pittsburg 66762	Rep.	3
Smith, Eric L., 627 Kennebec St., Burlington 66839	Rep.	76
Stogsdill, Jerry W., 4414 Tomahawk Rd., Prairie Village 66208	Dem.	21
Sutton, William M., 215 W. Park St., Gardner 66030	Rep.	43
Tarwater Sr., Sean E., 16006 Meadow Ln., Stilwell 66085	Rep.	27
Thomas, Adam, 16272 S. Sunset St., Olathe 66062	Rep.	26
Thompson, Kent L., 1816 2800 St., LaHarpe 66751	Rep.	9
Toplikar, John Matthew, 507 E. Spruce St., Olathe 66061	Rep.	15
Turner, Carl, 13001 El Monte St., Leawood 66209	Rep.	28
Vaughn, Lindsay, 8227 Santa Fe Dr., Overland Park 66204	Dem.	22
Victors, Dr. Ponka-We, PO Box 48081, Wichita 67201	Dem.	103
Waggoner, Paul, PO Box 3184, Hutchinson 67504	Rep.	104
Wasinger, Barb, PO Box 522, Hays 67601	Rep.	111
Waymaster, Troy L., 3528 192nd St., Bunker Hill 67626	Rep.	109
Weigel, Virgil, 1900 SW Briarwood Dr., Topeka 66611	Dem.	56
Wheeler Jr., John P., 902 Anderson St., Garden City 67846	Rep.	123
Williams, Kristey, 506 Stone Lake Ct., Augusta 67010	Rep.	77
Winn, PhD, Valdenia C., PO Box 12327, Kansas City 66112	Dem.	34
Wolfe Moore, Kathy, 3209 N. 131st St., Kansas City 66109	Dem.	36
Woodard, Brandon, 9051 Renner Blvd., Apt. 3002, Lenexa 66219	Dem.	30
Xu, Rui, 4724 Belinder Ave., Westwood 66205	Dem.	25

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Rick Wilborn..... Vice President
Gene Suellentrop.....Majority Leader
Dinah Sykes.....Minority Leader

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Blaine Finch.....Speaker Pro Tem
Dan Hawkins.....Majority Leader
Tom Sawyer.....Minority Leader

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House Majority Leader: **Dan Hawkins,** Wichita
Senate Minority Leader: **Dinah Sykes,** Lenexa
House Minority Leader: **Tom Sawyer,** Wichita

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2021 SESSION LAWS OF KANSAS

CHAPTER 1

SENATE BILL No. 14
(Amended by Chapters 7, 14, and 107)

AN ACT concerning governmental response to the COVID-19 pandemic in Kansas; providing certain relief related to health, welfare, property and economic security during this public health emergency; relating to the state of disaster emergency; powers of the governor and executive officers; providing certain limitations and restrictions; authorizing the temporary sale of alcoholic liquor for consumption off of certain licensed premises; authorizing the expanded use of telemedicine in response to the COVID-19 public health emergency and imposing requirements related thereto; suspending certain requirements related to medical care facilities and expiring such provisions; providing for temporary suspension of certain healthcare professional licensing and practice requirements; delegation and supervision requirements; conditions of licensure and renewal and reinstatement of licensure; relating to limitations on business liability associated with the COVID-19 public health emergency; amending K.S.A. 2019 Supp. 48-925, as amended by section 34 of chapter 1 of the 2020 Special Session Laws of Kansas and 48-925, as amended by section 34 of chapter 1 of the 2020 Special Session Laws of Kansas, as amended by section 4 of this act, and K.S.A. 2020 Supp. 41-2653, 48-924, 48-924b, 48-925a, 48-963, 48-965, 48-966 and 60-5504 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 41-2653 is hereby amended to read as follows: 41-2653. (a) In addition to the rights of a licensee pursuant to provisions of K.S.A. 41-2637, 41-2641 or 41-2642, and amendments thereto, a class A club license, class B club license or drinking establishment license shall allow the licensee to allow legal patrons of the club or drinking establishment to remove from the licensed premises one or more opened containers of alcoholic liquor, subject to the following conditions:

(1) It must be legal for the licensee to sell the alcoholic liquor in its original container;

(2) the alcoholic liquor must be in its original container;

(3) each container of alcoholic liquor must have been purchased by a patron and the alcoholic liquor in each container must have been partially consumed on the licensed premises;

(4) the licensee or the licensee's employee must provide the patron with a dated receipt for the unfinished container or containers of alcoholic liquor; and

(5) before the container of alcoholic liquor is removed from the licensed premises, the licensee or the licensee's employee must securely reseal each container, place the container in a tamper-proof, transparent bag which is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened.

(b) (1) In addition to the rights of a licensee pursuant to provisions of K.S.A. 41-2637, 41-2641 or 41-2642, and amendments thereto, and the provisions of subsection (a), a class A club license, class B club license or drinking establishment license shall allow the licensee to allow legal patrons of the club or drinking establishment to remove from the licensed premises one or more containers of alcoholic liquor that is not in the original container, subject to the following conditions:

(A) It must be legal for the licensee to sell the alcoholic liquor;

(B) each container of alcoholic liquor must have been purchased by a patron on the licensed premises;

(C) the licensee or the licensee's employee must provide the patron with a dated receipt for the alcoholic liquor; and

(D) before the container of alcoholic liquor is removed from the licensed premises, the licensee or the licensee's employee must place the container in a transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened.

(2) The provisions of this subsection shall expire on ~~January 26~~ *March 31*, 2021.

(c) This section shall be *a* part of and supplemental to the club and drinking establishment act.

Sec. 2. K.S.A. 2020 Supp. 48-924 is hereby amended to read as follows: 48-924. (a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) (1) Subject to the provisions of K.S.A. 2020 Supp. 48-924b, and amendments thereto, the governor, upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency.

(2) In addition to or instead of the proclamation authorized by K.S.A. 47-611, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 47-611, and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency. In addition to or instead of any actions pursuant to the provisions of K.S.A. 2-2114, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 2-2112 et seq., and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among plants, raw agricultural commodities, animal feed or processed food of any con-

tagious or infectious disease, may issue a proclamation declaring a state of disaster emergency.

(3) The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist. Upon making such findings the governor shall terminate the state of disaster emergency by proclamation, but except as provided in paragraph (4), no state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended once for a specified period not to exceed 30 days beyond such 15-day period.

(4) If the state of disaster emergency is proclaimed pursuant to paragraph (2), the governor shall terminate the state of disaster emergency by proclamation within 15 days, unless ratified by concurrent resolution of the legislature, except that when the legislature is not in session and upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The state finance council may authorize additional extensions of the state of disaster emergency by a unanimous vote of the legislative members thereof for specified periods not to exceed 30 days each. Such state of disaster emergency shall be terminated on the 15th day of the next regular legislative session following the initial date of the state of disaster emergency unless ratified by concurrent resolution of the legislature.

(5) The state of disaster emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, shall terminate on September 15, 2020, as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto, except that when the legislature is not in session *or is adjourned during session for three or more days,* and upon specific application by the governor to the state finance council and an affirmative vote of at least six of the legislative members of the council, this state of disaster emergency may be extended for specified periods not to exceed 30 days each. No such extension granted by the state finance council shall continue past ~~January 26~~ *March 31*, 2021.

(6) At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency.

(7) Any proclamation declaring or terminating a state of disaster emergency which is issued under this subsection shall indicate the nature of the disaster, the area or areas threatened or affected by the disaster

and the conditions which have brought about, or which make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency management, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area to which such proclamation applies.

(c) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, an officer specified in K.S.A. 48-1204, and amendments thereto, in the order of succession provided by that section, may issue a proclamation declaring a state of disaster emergency in the manner provided in and subject to the provisions of subsection (a). During a state of disaster emergency declared pursuant to this subsection, such officer may exercise the powers conferred upon the governor by K.S.A. 48-925, and amendments thereto. If a preceding officer in the order of succession becomes able and available, the authority of the officer exercising such powers shall terminate and such powers shall be conferred upon the preceding officer. Upon the return of the governor to the state or the removal of any constitutional disability of the governor, the authority of an officer to exercise the powers conferred by this section shall terminate immediately and the governor shall resume the full powers of the office. Any state of disaster emergency and any actions taken by an officer under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminated by the governor in the manner prescribed by law.

(d) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the political subdivisions or areas affected by the proclamation. Such proclamation shall be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

(e) The governor, when advised pursuant to K.S.A. 74-2608, and amendments thereto, that conditions indicative of drought exist, shall be authorized to declare by proclamation that a state of drought exists. This declaration of a state of drought can be for specific areas or communities, can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.

Sec. 3. K.S.A. 2020 Supp. 48-924b is hereby amended to read as follows: 48-924b. (a) The state of disaster emergency that was declared by the

governor pursuant to K.S.A. 48-924, and amendments thereto, as a result of the COVID-19 health emergency, by proclamation on March 12, 2020, which was ratified and continued in force and effect through May 1, 2020, by 2020 House Concurrent Resolution No. 5025, adopted by the house of representatives with the senate concurring therein on March 19, 2020, declared by proclamation on April 30, 2020, which was extended and continued in existence by the state finance council on May 13, 2020, for an additional 12 days through May 26, 2020, and declared by proclamation on May 26, 2020, *which was ratified and continued in existence through September 15, 2020, by this section, extended and continued in existence by the state finance council on September 11, 2020, for an additional 30 days through October 15, 2020, extended and continued in existence by the state finance council on October 7, 2020, for an additional 30 days through November 15, 2020, extended and continued in existence by the state finance council on November 13, 2020, for an additional 30 days through December 15, 2020, extended and continued in existence by the state finance council on December 11, 2020, for an additional 26 days through January 10, 2021, and extended and continued in existence by the state finance council on January 6, 2021, for an additional 16 days through January 26, 2021,* for all 105 counties of Kansas, is hereby ratified and continued in existence from March 12, 2020, through ~~September 15, 2020~~ *March 31, 2021*.

(b) The governor shall not proclaim any new state of disaster emergency related to the COVID-19 health emergency during 2020 *or 2021*, unless the governor makes specific application to the state finance council and an affirmative vote of at least six of the legislative members of the council approve such action by the governor.

Sec. 4. On and after January 26, 2021, K.S.A. 2019 Supp. 48-925, as amended by section 34 of chapter 1 of the 2020 Special Session Laws of Kansas, is hereby amended to read as follows: 48-925. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing herein shall restrict the authority of the governor to do so by orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation ~~thereof~~ *of this act*, the governor may issue orders ~~and proclamations which shall~~ *to exercise the powers conferred by subsection (c) that* have the force and effect of law during the period of a state of disaster emergency declared under ~~subsection (b) of~~ K.S.A. 48-924*(b)*, and amendments thereto, ~~and which~~ *or as provided in K.S.A. 2020 Supp. 48-924b, and amendments*

thereto. Within 24 hours of the issuance of any such order, the governor shall call a meeting of the state finance council for the purposes of reviewing such order. Such orders ~~and proclamations~~ shall be null and void ~~thereafter unless ratified by concurrent resolution of the legislature~~ *after the period of a state of disaster emergency has ended*. Such orders ~~and proclamations~~ may be revoked at any time by concurrent resolution of the legislature.

(c) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, ~~and~~ in addition to any other powers conferred upon the governor by law *and subject to the provisions of subsection (d), (e) and (f)*, the governor may:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and

(11) perform and exercise such other functions, powers and duties *in conformity with the constitution and the bill of rights of the state of*

Kansas and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of subsection (c)(1), as are necessary to promote and secure the safety and protection of the civilian population.

(d) *The governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition pursuant to subsection (c)(8) or any other executive authority.*

(e) Notwithstanding any provision of this section to the contrary and pursuant to the governor's state of disaster emergency proclamation issued on May 26, 2020, the governor shall not have the power or authority to restrict businesses from operating or to restrict the movement or gathering of individuals. The provisions of this subsection shall expire on September 15, 2020.

(f) The governor shall not have the power under the provisions of the Kansas emergency management act or the provisions of any other law to alter or modify any provisions of the election laws of the state including, but not limited to, the method by which elections are conducted or the timing of such elections.

(g) The governor shall exercise the powers conferred by subsection (c) by issuance of orders under subsection (b). *Each order issued pursuant to the authority granted by subsection (b) shall specify the provision or provisions of subsection (c) by specific reference to each paragraph of subsection (c) that confers the power under which the order was issued.* The adjutant general, subject to the direction of the governor, shall administer such orders.

(h) The board of county commissioners of any county may issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the governor. Any board of county commissioners issuing such an order must make the following findings and include such findings in the order:

(1) The board has consulted with the local health officer or other local health officials regarding the governor's executive order;

(2) following such consultation, implementation of the full scope of the provisions in the governor's executive order are not necessary to protect the public health and safety of the county; and

(3) all other relevant findings to support the board's decision.

Sec. 5. On and after March 31, 2021, K.S.A. 2019 Supp. 48-925, as amended by section 34 of chapter 1 of the 2020 Special Session Laws of Kansas, as amended by section 4 of this act, is hereby amended to read as follows: 48-925. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all

other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing herein shall restrict the authority of the governor to do so by orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation ~~of this act~~ *thereof*, the governor may issue orders ~~to exercise the powers conferred by subsection (c) that~~ *and proclamations which shall* have the force and effect of law during the period of a state of disaster emergency declared under *subsection (b) of* K.S.A. 48-924~~(b)~~, and amendments thereto, ~~or as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto. Within 24 hours of the issuance of any such order, the governor shall call a meeting of the state finance council for the purposes of reviewing such order. Such~~ *and which* orders *and proclamations* shall be null and void ~~after the period of a state of disaster emergency has ended~~ *thereafter unless ratified by concurrent resolution of the legislature*. Such orders *and proclamations* may be revoked at any time by concurrent resolution of the legislature.

(c) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, *and* in addition to any other powers conferred upon the governor by law ~~and subject to the provisions of subsection (d), (e) and (f)~~, the governor may:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and

(11) perform and exercise such other functions, powers and duties ~~in conformity with the constitution and the bill of rights of the state of Kansas and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of subsection (c)(1),~~ as are necessary to promote and secure the safety and protection of the civilian population.

(d) ~~The governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition pursuant to subsection (c)(8) or any other executive authority.~~

~~(e) Notwithstanding any provision of this section to the contrary and pursuant to the governor's state of disaster emergency proclamation issued on May 26, 2020, the governor shall not have the power or authority to restrict businesses from operating or to restrict the movement or gathering of individuals. The provisions of this subsection shall expire on September 15, 2020.~~

~~(f) The governor shall not have the power under the provisions of the Kansas emergency management act or the provisions of any other law to alter or modify any provisions of the election laws of the state including, but not limited to, the method by which elections are conducted or the timing of such elections.~~

~~(g)~~ The governor shall exercise the powers conferred by subsection (c) by issuance of orders under subsection (b). ~~Each order issued pursuant to the authority granted by subsection (b) shall specify the provision or provisions of subsection (c) by specific reference to each paragraph of subsection (c) that confers the power under which the order was issued.~~ The adjutant general, subject to the direction of the governor, shall administer such orders.

~~(h) The board of county commissioners of any county may issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the governor. Any board of county commissioners issuing such an order must make the following findings and include such findings in the order:~~

~~(1) The board has consulted with the local health officer or other local health officials regarding the governor's executive order;~~

~~(2) following such consultation, implementation of the full scope of the provisions in the governor's executive order are not necessary to protect the public health and safety of the county; and~~

~~(3) all other relevant findings to support the board's decision.~~

Sec. 6. K.S.A. 2020 Supp. 48-925a is hereby amended to read as follows: 48-925a. (a) ~~On and after September 15, 2020,~~ During any state of disaster emergency *related to the COVID-19 public health emergency* declared pursuant to K.S.A. 48-924, and amendments thereto, the governor may not *issue an* order ~~the closure or cessation of any~~ *that substantially burdens or inhibits the gathering or movement of individuals or operation of any religious, civic,* business or commercial activity, whether for-profit or not-for-profit~~, for more than 15 days. At least 24 hours prior to the issuance of such order, the governor shall call a meeting of the state finance council for the purpose of consulting with the council regarding the conditions necessitating the issuance of such order. After such initial order or orders providing for the closure or cessation of any business or commercial activity have resulted in 15 days of such closures or cessation of business or commercial activity, the governor may not order the closure or cessation of business or commercial activity, except upon specific application by the governor to the state finance council and an affirmative vote of at least six of the legislative members of the council, the governor may order the closure or cessation of business or commercial activity as approved by the council for specified periods not to exceed 30 days each~~.

(b) Any order issued that violates or exceeds the restrictions provided in subsection (a) shall not have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, and any such order shall be null and void.

(c) The provisions of this section shall expire on ~~January 26~~ *March 31*, 2021.

Sec. 7. K.S.A. 2020 Supp. 48-963 is hereby amended to read as follows: 48-963. (a) A physician may issue a prescription for or order the administration of medication, including a controlled substance, for a patient without conducting an in-person examination of such patient.

(b) A physician under quarantine, including self-imposed quarantine, may practice telemedicine.

(c) (1) A physician holding a license issued by the applicable licensing agency of another state may practice telemedicine to treat patients located in the state of Kansas, if such out-of-state physician:

(A) Advises the state board of healing arts of such practice in writing and in a manner determined by the state board of healing arts; and

(B) holds an unrestricted license to practice medicine and surgery in the other state and is not the subject of any investigation or disciplinary action by the applicable licensing agency.

(2) The state board of healing arts may extend the provisions of this subsection to other healthcare professionals licensed and regulated by the board as deemed necessary by the board to address the impacts of COVID-19 and consistent with ensuring patient safety.

(d) A physician practicing telemedicine in accordance with this section shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.

(e) Nothing in this section shall supersede or otherwise affect the provisions of K.S.A. 65-4a10, and amendments thereto, or K.S.A. 2020 Supp. 40-2,215, and amendments thereto.

(f) As used in this section:

(1) "Physician" means a person licensed to practice medicine and surgery.

(2) "Telemedicine" means the delivery of healthcare services by a healthcare provider while the patient is at a different physical location.

(g) This section shall expire on ~~January 26~~ *March 31*, 2021.

Sec. 8. K.S.A. 2020 Supp. 48-965 is hereby amended to read as follows: 48-965. (a) Notwithstanding any statute to the contrary, the state board of healing arts may grant a temporary emergency license to practice any profession licensed, certified, registered or regulated by the board to an applicant with qualifications the board deems sufficient to protect public safety and welfare within the scope of professional practice authorized by the temporary emergency license for the purpose of preparing for, responding to or mitigating any effect of COVID-19.

(b) This section shall expire on ~~January 26~~ *March 31*, 2021.

Sec. 9. K.S.A. 2020 Supp. 48-966 is hereby amended to read as follows: 48-966. (a) Notwithstanding the provisions of K.S.A. 65-28a08 and 65-28a09, and amendments thereto, or any other statute to the contrary, a licensed physician assistant may provide healthcare services appropriate to such physician assistant's education, training and experience within a designated healthcare facility at which the physician assistant is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without a written agreement with a supervising physician. Such physician assistant shall not be liable in any criminal prosecution, civil action or administrative proceeding arising out of such physician assistant's lack of written agreement with a supervising physician.

(b) Notwithstanding the provisions of K.S.A. 65-1130, and amendments thereto, or any other statute to the contrary, a licensed advanced practice registered nurse may provide healthcare services appropriate

to such advanced practice registered nurse's education, training and experience within a designated healthcare facility at which the advanced practice registered nurse is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without direction and supervision from a responsible physician. Such advanced practice registered nurse shall not be liable in any criminal prosecution, civil action or administrative proceeding arising out of such advanced practice registered nurse's lack of direction and supervision from a responsible physician.

(c) Notwithstanding the provisions of K.S.A. 65-1158, and amendments thereto, or any other statute to the contrary, a registered nurse anesthetist may provide healthcare services appropriate to such registered nurse anesthetist's education, training and experience within a designated healthcare facility at which the registered nurse anesthetist is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without direction and supervision from a physician. Such registered nurse anesthetist shall not be liable in any criminal prosecution, civil action or administrative proceeding arising out of such registered nurse anesthetist's lack of direction and supervision from a physician.

(d) Notwithstanding the provisions of K.S.A. 65-1113, and amendments thereto, or any other statute to the contrary:

(1) A registered professional nurse or licensed practical nurse may order the collection of throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19 for purposes of testing; and

(2) a licensed practical nurse may provide healthcare services appropriate to such licensed practical nurse's education, training and experience within a designated healthcare facility at which the licensed practical nurse is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without direction from a registered professional nurse. Such licensed practical nurse shall not be liable in any criminal prosecution, civil action or administrative proceeding arising out of such licensed practical nurse's lack of supervision from a registered professional nurse.

(e) Notwithstanding the provisions of K.S.A. 65-1626a, and amendments thereto, or any other statute to the contrary, a licensed pharmacist may provide care for routine health maintenance, chronic disease states or similar conditions appropriate to such pharmacist's education, training and experience within a designated healthcare facility at which the pharmacist is employed or contracted to work as necessary to support the facility's response to the COVID-19 pandemic without a collaborative practice agreement with a physician. Such pharmacist shall not be liable

in any criminal prosecution, civil action or administrative proceeding arising out of such pharmacist's lack of collaborative practice agreement with a physician.

(f) Notwithstanding the provisions of K.S.A. 65-1115, 65-1116 and 65-1117, and amendments thereto, or any other statute to the contrary, a registered professional nurse or licensed practical nurse who holds a license that is exempt or inactive or whose license has lapsed within the past five years from the effective date of this act may provide healthcare services appropriate to the nurse's education, training and experience. Such registered professional nurse or licensed practical nurse shall not be liable in any criminal prosecution, civil action or administrative proceeding arising out of such nurse's exempt, inactive or lapsed license.

(g) Notwithstanding any other provision of law to the contrary, a designated healthcare facility may, as necessary to support the facility's response to the COVID-19 pandemic:

(1) Allow a student who is enrolled in a program to become a licensed, registered or certified healthcare professional to volunteer for work within such facility in roles that are appropriate to such student's education, training and experience;

(2) allow a licensed, registered or certified healthcare professional or emergency medical personnel who is serving in the military in any duty status to volunteer or work within such facility in roles that are appropriate to such military service member's education, training and experience; and

(3) allow a medical student, physical therapist or emergency medical services provider to volunteer or work within such facility as a respiratory therapist extender under the supervision of a physician, respiratory therapist or advanced practice registered nurse. Such respiratory therapist extender may assist respiratory therapists and other healthcare professionals in the operation of ventilators and related devices and may provide other healthcare services appropriate to such respiratory therapist extender's education, training and experience, as determined by the facility in consultation with such facility's medical leadership.

(h) Notwithstanding any statute to the contrary, a healthcare professional licensed and in good standing in another state may practice such profession in the state of Kansas. For purposes of this subsection, a license that has been suspended or revoked or a licensee that is subject to pending license-related disciplinary action shall not be considered to be in good standing. Any license that is subject to limitation in another state shall be subject to the same limitation in the state of Kansas. Such healthcare professional shall not be liable in any criminal prosecution, civil action or administrative proceeding arising out of such healthcare professional's lack of licensure in the state of Kansas.

(i) Notwithstanding any statute to the contrary, a designated healthcare facility may use a qualified volunteer or qualified personnel affiliated with any other designated healthcare facility as if such volunteer or personnel was affiliated with the facility using such volunteer or personnel, subject to any terms and conditions established by the secretary of health and environment.

(j) Notwithstanding any statute to the contrary, a healthcare professional may be licensed, certified or registered or may have such license, certification or registration reinstated within five years of lapse or renewed by the applicable licensing agency of the state of Kansas without satisfying the following conditions of licensure, certification or registration:

(1) An examination, if such examination's administration has been canceled while the state of disaster emergency proclamation issued by the governor in response to the COVID-19 pandemic is in effect;

(2) fingerprinting;

(3) continuing education; and

(4) payment of a fee.

(k) Notwithstanding any statute to the contrary, a professional certification in basic life support, advanced cardiac life support or first aid shall remain valid if such professional certification is due to expire or be canceled while the state of disaster emergency proclamation issued by the governor in response to the COVID-19 pandemic is in effect.

(l) Notwithstanding any statute to the contrary, fingerprinting of any individual shall not be required as a condition of licensure and certification for any hospital, as defined in K.S.A. 65-425, and amendments thereto, adult care home, county medical care facility or psychiatric hospital.

(m) As used in this section:

(1) "Appropriate to such professional's education, training and experience," or words of like effect, shall be determined by the designated healthcare facility in consultation with such facility's medical leadership; and

(2) "designated healthcare facility" means:

(A) Entities listed in K.S.A. 40-3401(f), and amendments thereto;

(B) state-owned surgical centers;

(C) state-operated hospitals and veterans facilities;

(D) entities used as surge capacity by any entity described in subparagraphs (A) through (C);

(E) adult care homes; and

(F) any other location specifically designated by the governor or the secretary of health and environment to exclusively treat patients for COVID-19.

(n) The provisions of this section shall expire on ~~January 26~~ *March 31*, 2021.

Sec. 10. K.S.A. 2020 Supp. 60-5504 is hereby amended to read as follows: 60-5504. (a) Notwithstanding any other provision of law, a person, or an agent of such person, conducting business in this state shall be immune from liability in a civil action for a COVID-19 claim if such person was acting pursuant to and in substantial compliance with public health directives applicable to the activity giving rise to the cause of action when the cause of action accrued.

(b) The provisions of this section shall expire on ~~January 26~~ *March 31*, 2021.

Sec. 11. K.S.A. 2020 Supp. 41-2653, 48-924, 48-924b, 48-925a, 48-963, 48-965, 48-966 and 60-5504 are hereby repealed.

Sec. 12. On and after January 26, 2021, K.S.A. 2019 Supp. 48-925, as amended by section 34 of chapter 1 of the 2020 Special Session Laws of Kansas, is hereby repealed.

Sec. 13. On and after March 31, 2021, K.S.A. 2019 Supp. 48-925, as amended by section 34 of chapter 1 of the 2020 Special Session Laws of Kansas, as amended by section 4 of this act, is hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved January 25, 2021.

Published in the *Kansas Register* January 25, 2021.

CHAPTER 2

SENATE BILL No. 15
(Amended by Chapter 87)

AN ACT concerning financial institutions; enacting the Kansas economic recovery loan deposit program; relating to credit unions, field of membership; banks, trust companies and savings and loan institutions, privilege tax, deduction of net interest received from certain agricultural real estate loans and single family residence loans; amending K.S.A. 75-4237 and 79-1109 and K.S.A. 2020 Supp. 17-2205 and repealing the existing sections.

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

New Section 1. (a) Sections 1 through 7, and amendments thereto, shall be known and may be cited as the Kansas economic recovery loan deposit program.

(b) The Kansas economic recovery loan deposit program shall be a part of and supplemental to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 2. As used in the Kansas economic recovery loan deposit program:

(a) "Director of investments" means the person referred to in K.S.A. 75-4222, and amendments thereto;

(b) "economic recovery loan deposit" means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, with an eligible lending institution for the purpose of carrying out the intent of the Kansas economic recovery loan deposit program;

(c) "economic recovery loan deposit loan" or "loan" means a loan made by an eligible lending institution to an eligible borrower from the eligible lending institution's economic recovery loan deposit as part of the economic recovery loan deposit program;

(d) "economic recovery loan deposit loan package" means the forms provided by the state treasurer for the purpose of applying for an economic recovery loan deposit;

(e) "economic recovery loan deposit program" or "program" means a state-administered program in which eligible lenders are charged less than the market rate of interest and eligible borrowers receive a reduction in interest charged on a loan in the amount of the deposit;

(f) "eligible borrower" means any individual or entity operating a business primarily for commercial or agricultural purposes with not more than 200 full-time employees maintaining offices or operating facilities and transacting business in the state of Kansas and is not an individual obtaining a loan primarily for personal, family or household purposes; and

(g) "eligible lending institution" means a financial institution that is:

(1) A bank, as defined under K.S.A. 75-4201, and amendments thereto, that agrees to participate in the program and is eligible to be a depository of state funds;

(2) a credit union, as defined under K.S.A. 17-2231, and amendments thereto, that agrees to participate in the program and that provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto; or

(3) an institution of the farm credit system organized under the federal farm credit act of 1971, 12 U.S.C. § 2001, as in effect on July 1, 2021, having at least one branch in the state of Kansas and that agrees to participate in the program and that provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 3. (a) (1) The state treasurer is hereby authorized to administer the Kansas economic recovery loan deposit program.

(2) The program shall be for the purpose of providing incentives for the making of business loans.

(3) The total aggregate amount of economic recovery loan deposit loans under the program shall not exceed $60,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(b) The state treasurer shall adopt all rules and regulations necessary to enact and administer the provisions of the Kansas economic recovery loan deposit program. Such rules and regulations shall be adopted not later than February 1, 2022.

(c) The state treasurer shall submit an annual report to the governor and the legislature identifying the eligible lending institutions that are participating in the program and the eligible borrowers who have received an economic recovery loan deposit loan. The annual report shall provide the aggregate amount of moneys loaned and the amount of moneys still available for loan, if any. Such report shall be due on or before January 1, 2023, and each January 1 thereafter.

(d) The legislature shall perform a review of the program as a part of the state treasurer's annual report on or after January 1, 2024.

New Sec. 4. (a) The state treasurer is hereby authorized to disseminate information and to provide economic recovery loan deposit loan packages to the lending institutions eligible for participation in the Kansas economic recovery loan deposit program.

(b) The economic recovery loan deposit loan package shall be completed by the eligible borrower before being forwarded to the lending institution for consideration.

(c) (1) An eligible lending institution that agrees to receive an eco-

nomic recovery loan deposit shall accept and review applications for loans from eligible borrowers.

(2) The lending institution shall apply all usual lending standards to determine the credit worthiness of eligible borrowers.

(3) No single economic recovery loan deposit loan shall exceed $250,000.

(4) Only one economic recovery loan deposit loan shall be made and be outstanding at any one time to any eligible borrower.

(5) No loan shall be amortized for a period of more than 10 years.

(d) An eligible borrower shall certify on the loan application that the reduced rate loan will be used exclusively for the expenses involved in operating the borrower's business in Kansas.

(e) The eligible lending institution may approve or reject an economic recovery loan deposit loan package based on the lending institution's evaluation of the eligible borrowers included in the package, the amount of the individual loan in the package and other appropriate considerations.

(f) The eligible lending institution shall forward to the state treasurer an approved economic recovery loan deposit loan package in the form and manner prescribed and approved by the state treasurer. The package shall include information regarding the amount of the loan requested by each eligible borrower and such other information regarding each eligible borrower that the state treasurer may require. Such package shall include a certification by the applicant that such applicant is an eligible borrower.

New Sec. 5. (a) The state treasurer may accept or reject an economic recovery loan deposit loan package based on the state treasurer's evaluation of whether the loan to the eligible borrower meets the requirements of the Kansas economic recovery loan deposit program. If sufficient funds are not available for an economic recovery loan deposit, then the applications may be considered in the order received when funds are once again available, subject to a review by the lending institution.

(b) Upon acceptance, the state treasurer shall certify to the director of investments the amount required for such economic recovery loan deposit loan package, and the director of investments shall place an economic recovery loan deposit in the amount certified by the state treasurer with the eligible lending institution at an interest rate that is 2% below the market rate as provided in K.S.A. 75-4237, and amendments thereto, and that shall be recalculated on the first business day of January of each year using the market rate then in effect. The minimum interest rate shall be 0.25% if the market rate is below 2.25%. When necessary, the state treasurer may request the director of investments to place such economic recovery loan deposit with the eligible lending institution prior to acceptance of an economic recovery loan deposit loan package.

(c) The eligible lending institution shall enter into an economic recovery loan deposit agreement with the state treasurer, which shall include requirements necessary to implement the purposes of the Kansas economic recovery loan deposit program. Such requirements shall include an agreement by the eligible lending institution to lend an amount equal to the economic recovery loan deposit to eligible borrowers at an interest rate that is not more than 3% greater than the interest rate on economic recovery loan deposits as provided in subsection (b). Such rate shall be recalculated on the first business day of January of each year using the market rate then in effect. The agreement shall include provisions for the economic recovery loan deposit to be placed for a period of time not to exceed 10 years and that is considered appropriate in coordination with the underlying economic recovery loan. The agreement shall include provisions for the reduction of the economic recovery loan deposit in an amount equal to any payment of loan principal by the eligible borrower.

New Sec. 6. Upon the placement of an economic recovery loan deposit with an eligible lending institution, the institution shall fund the loan to each approved eligible borrower listed in the economic recovery deposit loan package in accordance with the economic recovery loan deposit agreement between the institution and the state treasurer. The loan shall be at a rate as provided in section 5(c), and amendments thereto. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution.

New Sec. 7. The state of Kansas and the state treasurer shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on any economic recovery loan deposit loan to an eligible borrower. Any delay in payments or default on the part of an eligible borrower does not in any manner affect the economic recovery loan deposit agreement between the eligible lending institution and the state treasurer.

Sec. 8. K.S.A. 2020 Supp. 17-2205 is hereby amended to read as follows: 17-2205. (a) (1) The membership shall consist of the organizers and such persons, societies, associations, copartnerships and corporations as have been duly elected to membership and have subscribed to one or more shares and have paid for the same, and have complied with such other requirements as the articles of incorporation may contain.

(2) Once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union.

(3) Members of a credit union also may include the following:

(A) The spouse of any person who died while such person was within the field of membership of the credit union;

(B) any employee of the credit union;

(C) any person who retired from any qualified employment group within the field of membership;

(D) any person of a volunteer group recognized by the management of the association or employee group within the field of membership and such person: (i) Has completed a training program offered by the volunteer group to further its goals; (ii) serves on the board of the volunteer group; or (iii) serves as an officer of the volunteer group;

(E) any member of such person's immediate family or household;

(F) any organization whose membership consists of persons within the field of membership; and

(G) any corporate or other legal entity within the field of membership as identified in the charter, articles of incorporation or bylaws of the credit union.

(4) For the purposes ~~of subparagraph (E)~~ of paragraph (3)*(E)*:

(A) Except as provided in subparagraph (B), the term "immediate family or household" ~~shall mean~~ *means* spouse, parent, stepparent, grandparent, child, stepchild, sibling, grandchild or former spouse and persons living in the same residence maintaining a single economic unit with persons within the credit union's field of membership.

(B) If the credit union's bylaws adopted a definition of immediate family before June 30, 2008, the credit union may use that definition. A credit union may adopt a more restrictive definition of immediate family or household.

(C) If authorized in the credit union's bylaws, a member of the immediate family or household is eligible to join even when the eligible member has not joined the credit union.

(b) (1) Credit union organizations shall be limited to:

(A) A group having a single common bond of occupation or association;

(B) a group having multiple common bonds of occupation or association or any combination thereof. No such group shall have a membership of more than 3,000, except as permitted in ~~subsections~~ *subsection* (c) or (d); or

(C) persons residing, working or worshiping in or organizations located within a geographic area.

(2) A common bond of occupation may include employees of the same employer, workers under contract with the same employer, businesses paid by the same employer on a continuing basis or employees in the same trade, industry or profession.

(3) A common bond of association may include members and employees of a recognized association as defined in such association's charter, bylaws or other equivalent document.

(c) A credit union ~~which~~ *that* chooses to be limited as provided in ~~subparagraph (C) of paragraph (1) of~~ subsection (b)*(1)(C)* may include one or more common bonds of occupation or one or more common bonds of association or any combination thereof with no limitation on the number of members, if the employer or association is located in the geographic area of the credit union.

(d) A group formed with multiple common bonds of occupation or association may exceed 3,000 members, if the administrator determines in writing that such group could not feasibly or reasonably establish a new single common bond credit union because the group:

(1) Lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

(2) does not meet the criteria established by the administrator indicating a likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or

(3) would be unlikely to be able to operate in a safe and sound manner.

(e) (1) A geographic area may include:

(A) A single political jurisdiction;

(B) multiple contiguous political jurisdictions if the aggregate total of the population of the geographic area does not exceed ~~500,000, except as provided in subparagraph (C) or in subsections (i), (j), (k) and (l); or~~

~~(C) if the headquarters of the credit union is located in a MSA, the geographic area may include one or more political jurisdictions which share a common border to the MSA if the aggregate total of the population of the geographic area does not exceed 1,000,000. The maximum population available for any credit union whose headquarters is located within a MSA shall be adjusted by the administrator based upon the population data for the largest MSA in the state of Kansas, or any portion thereof located within the state of Kansas. The maximum population available for any credit union whose headquarters is located within a MSA shall be determined by multiplying the population of the largest MSA in the state of Kansas, or that portion of such MSA located within the state of Kansas if the boundaries of such MSA extend outside the state of Kansas, as determined by the most recent population data, by the fraction having a numerator of 1,000,000 and a denominator of 750,000 for the purposes of this section, the administrator shall use population data based upon the adjusted federal census information presented to the legislature by the secretary of state pursuant to K.S.A. 11-304, and amendments thereto~~ *2,500,000, as determined by official state population figures for the state of Kansas, or any portion thereof, that are identical to the decennial census data from the actual enumer-*

ation conducted by the United States bureau of the census and used for the apportionment of the United States house of representatives in accordance with K.S.A. 11-304, and amendments thereto.

(2) ~~Except as provided in subsections (i), (j), (k) and (l), from and after July 1, 2008,~~ No geographic area shall consist of ~~any congressional district or~~ the entire state of Kansas.

(f) (1) ~~Except as provided in subsections (i), (j), (k) and (l), from and after July 1, 2008,~~ No credit union shall change or alter its field of membership except as provided in this section. Before a credit union can alter or change its field of membership, such credit union shall file, or cause to be filed, with the administrator, an application for amendment to its field of membership. The application shall include:

(A) Documentation showing that the proposed area or groups to be served meets the statutory requirements for field of membership set forth in this statute;

(B) pro forma financial statements for the first two years after the proposed alteration of or change in field of membership, including any assumption regarding growth in membership, shares, loans and assets;

(C) a marketing plan addressing how the proposed field of membership will be served;

(D) the financial services to be provided to the credit union's members;

(E) a local map showing the location of both current and proposed headquarters and branches; and

(F) the anticipated financial impact on the credit union in terms of need for additional employees and fixed assets.

(2) (A) The application shall also include a proof of publication of the notice that the affected credit union intends to file or has filed an application to alter or change its field of membership. Such notice shall be in the form prescribed by the administrator and shall at a minimum contain the name and address of the applicant credit union and a description of the proposed alteration of or change in the field of membership.

(B) The notice shall be published for two consecutive weeks in the Kansas register. The required publications shall occur within 60 days of and prior to the effective date of the proposed change. The applicant shall provide proof of publication to the administrator.

(g) For the purposes of this section:

~~(1) "MSA" means a metropolitan statistical area as defined by the United States department of commerce which has more than one county located in Kansas. If the boundaries of such MSA extend outside the state of Kansas only that portion of such MSA located within the state of Kansas shall be considered for the purposes of this section.~~

~~(2)~~ , "political jurisdiction" means a city, county, township or clearly identifiable neighborhood.

~~(3) "Population data" means official state population figures for the state of Kansas, or any portion thereof, which are identical to the decennial census data from the actual enumeration conducted by the United States bureau of the census and used for the apportionment of the United States house of representatives in accordance with K.S.A. 11-304, and amendments thereto.~~

~~(h) No increase in the population reflected by the population data shall require a modification to a field of membership as in existence on June 30, 2008.~~

~~(i) Notwithstanding any other provisions of this section, any person, including any member of such person's immediate family or household, or organization that is a member of any credit union which was in existence on June 30, 2008, may continue to be a member of such credit union after such date. For the purposes of this subsection, if the term "member" refers to an individual, the term member may include any other person who is a member of such individual's immediate family or household as specified in subsection (a).~~

~~(j) (1) Notwithstanding any other provisions of this section:~~

~~(A) Any branch of a credit union that is in existence as of February 1, 2008, may continue to operate in the county where it is located on and after June 30, 2008. If such branch is unable to continue operations due to a natural disaster, eminent domain proceedings, loss of lease, loss of sponsor space or any condition outside of the control of the credit union, the credit union may establish a replacement branch in that county.~~

~~(B) Any credit union which has taken an overt step toward the construction of a new building, facility or branch on or before February 1, 2008, may continue to construct and operate the new building, facility or branch in the city in which such new building, facility or branch is located even if the construction is not completed on or before June 30, 2008. If such branch is unable to continue operations due to a natural disaster, eminent domain proceedings, loss of lease, loss of sponsor space or any condition outside of the control of the credit union, the credit union may establish a replacement branch in that city.~~

~~(2) For the purposes of this subsection, the term "overt act" includes the:~~

~~(A) Purchase of or entering into a contract for the purchase of any necessary tract of land for the location of such new building, facility or branch of an existing credit union.~~

~~(B) Acquisition or lease of a building for the purpose of housing a new facility or branch of an existing credit union.~~

~~(C) Adoption of architectural drawings for the construction of a new building, facility or branch of an existing credit union.~~

~~(D) Adoption of architectural drawings for the renovation of an existing building for use as a facility or branch of an existing credit union.~~

~~(k) Notwithstanding any other provisions of this section, a member of any occupation or association group whose members constituted a portion of the membership of any credit union as of February 1, 2008, shall continue to be eligible to become a member of that credit union, by virtue of membership in that group on and after June 30, 2008. For purposes of this subsection, a patron of an organization is eligible for membership if such patron is an individual who uses the products and services of the organization which is included in the field of membership of the credit union at the time the patron applies for membership in the credit union.~~

~~(l) Notwithstanding any other provisions of this section, any credit union:~~

~~(1) Which has been granted a field of membership on or before February 1, 2008, which includes the entire state of Kansas or its residents shall, on or before January 1, 2009, adopt a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population not to exceed 1,000,000. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total. Any credit union with its headquarters located in a county that is not part of a MSA shall not include more than one MSA in its entirety in its adopted field of membership.~~

~~(2) With its headquarters located within a MSA as of February 1, 2008, may continue to include multiple contiguous political jurisdictions that were included in its field of membership as of February 1, 2008, if the aggregate total population of such multiple contiguous political jurisdictions does not exceed 1,000,000. If the field of membership of any credit union involves multiple contiguous political jurisdictions that have an aggregate total population that exceeds 1,000,000 as of February 1, 2008, then such credit union shall, on or before January 1, 2009, adopt a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population which does not exceed 1,000,000. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total.~~

~~(3) With headquarters located in a county that is not part of a MSA may continue to include multiple contiguous political jurisdictions that were included in its field of membership as of February 1, 2008, if the aggregate total population of such multiple contiguous political jurisdictions does not exceed 1,000,000 population total. If the field of membership of any credit union involves multiple contiguous political jurisdictions that have an aggregate total population that exceeds 1,000,000 as of February 1, 2008, then such credit union shall, on or before January 1, 2009, adopt~~

~~a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population which does not exceed 1,000,000 population total. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total. The adopted field of membership of such credit union shall not include more than one MSA in its entirety.~~

Sec. 9. K.S.A. 75-4237 is hereby amended to read as follows: 75-4237. (a) The director of investments shall accept requests from banks interested in obtaining investment accounts of state moneys. Such requests may be submitted any business day and shall specify the dollar amount and maturity. The director of investments is authorized to award the investment account to the requesting bank at the market rate established by subsection (b). Awards of investment accounts pursuant to this section shall be subject to investment policies of the pooled money investment board. When multiple requests are received and are in excess of the amount available for investment that day for any maturity, awards shall be made available in ascending order from smallest to largest dollar amount requested, subject to investment policies of the board.

(b) The market rate shall be determined each business day by the director of investments, in accordance with any procedures established by the pooled money investment board. Subject to any policies of the board, the market rate shall reflect the highest rate at which state moneys can be invested on the open market in investments authorized by ~~subsection (a) of~~ K.S.A. 75-4209*(a)*, and amendments thereto, for equivalent maturities.

(c) (1) Notwithstanding the provisions of this section, linked deposits made pursuant to the provisions of K.S.A. 2-3703 through 2-3707, and amendments thereto, shall be at an interest rate ~~which~~ *that* is 2% less than the market rate determined under this section and which shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(2) Notwithstanding the provisions of this section, agricultural production loan deposits made pursuant to the provisions of K.S.A. 75-4268 through 75-4274, and amendments thereto, shall be at *an interest rate that is* 2% less than the market rate provided by this section and ~~which~~ *that* shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(3) Notwithstanding the provisions of this section, economic recovery loan deposits made pursuant to the Kansas economic recovery loan deposit program shall be at an interest rate that is 2% less than the market rate provided by this section and which shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(d) *(1)* The director of investments may place deposits through a selected bank, savings and loan association or savings bank ~~which~~ *that* is part of a reciprocal deposit program in which the bank, savings and loan association or savings bank:

~~(1)~~*(A)* Receives reciprocal deposits from other participating institutions located in the United States in an amount equal to the amount of funds deposited by the municipal corporation or quasi-municipal corporation; and

~~(2)~~*(B)* for which the total cumulative amount of each deposit does not exceed the maximum deposit insurance amount for one depositor at one financial institution as determined by the federal deposit insurance corporation.

(2) Such deposits shall not be treated as securities and need not be secured as provided in this or any other act, except that such deposits shall be secured as provided in K.S.A. 75-4218, and amendments thereto, when they are held by the selected financial institution prior to placement with reciprocal institutions or upon maturity.

(e) The pooled money investment board shall establish procedures for administering reciprocal deposit programs in its investment policies, as authorized by K.S.A. 75-4232, and amendments thereto.

Sec. 10. K.S.A. 79-1109 is hereby amended to read as follows: 79-1109. *(a)* As used in this act, "net income" ~~shall mean~~ *means* the Kansas taxable income of corporations as defined in K.S.A. 79-32,138, and amendments thereto, determined without regard to the provisions of K.S.A. 79-32,139, and amendments thereto, and the provisions of ~~paragraph (xiv) of subsection (c) of~~ K.S.A. 79-32,117*(c)(xiv)*, and amendments thereto, plus income received from obligations or securities of the United States or any authority, commission or instrumentality of the United States and its possessions to the extent not included in Kansas taxable income of a corporation and income received from obligations of this state or a political subdivision ~~thereof which~~ *of this state that* is exempt from income tax under the laws of this state~~,~~, less dividends received from stock issued by Kansas venture capital, inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest paid on time deposits or borrowed money and dividends paid on withdrawable shares of savings and loan associations to the extent not deducted in arriving at Kansas taxable income of a corporation.

(b) Savings and loan associations shall be allowed as a deduction from net income, as ~~hereinbefore~~ defined *in subsection (a)*, a reserve established for the sole purpose of meeting or absorbing losses, in the amount of 5% of such net income determined without benefit of such deduction, but no further deduction shall be allowed for losses when actually sustained and charged against such reserve, unless such reserve shall have

been fully absorbed thereby; or, in the alternative, a reasonable addition to a reserve for losses based on past experience, under such rules and regulations as the secretary of revenue may prescribe.

(c) For all taxable years commencing after December 31, 2022, national banking associations, state banks, trust companies and savings and loan associations shall be allowed as a deduction from net income, as defined in subsection (a), the net interest income received from qualified agricultural real estate loans attributed to Kansas and the net interest income received from single family residence loans attributed to Kansas to the extent such interest is included in the Kansas taxable income of a corporation. As used in this subsection:

(1) "Interest" means interest on indebtedness attributed to Kansas and incurred in the ordinary course of the active conduct of any business and interest on indebtedness incurred that is secured by a single family residence;

(2) "qualified agricultural real estate loans" means loans made on real property that is substantially used for the production of one or more agricultural products and that:

(A) Have maturities of not less than five years and not more than 40 years;

(B) are secured by a first lien interest in real estate, except that the loans may be secured by a second lien interest if the institution also holds the first lien on the property; and

(C) have an outstanding loan balance when made that is less than 85% of the appraised value of the real estate, except that a loan for which private mortgage insurance is obtained may exceed 85% of the appraised value of the real estate to the extent the loan amount in excess of 85% is covered by such insurance;

(3) "single family residence" means a residence that:

(A) Is the principal residence of its occupant;

(B) is located in Kansas, in a rural area as defined by the United States department of agriculture that is not within a metropolitan statistical area and has a population of 2,500 or less as determined by the most recent census for which data is available; and

(C) is purchased or improved with the proceeds of the loan;

(4) "net interest income received from qualified agricultural real estate loans attributed to Kansas" means the product of the ratio of the interest income earned on qualified agricultural real estate loans over total interest income earned, in relation to the net income of the national banking association, state bank, trust company or savings and loan association without regard to this deduction; and

(5) "net interest income received from single family residence loans attributed to Kansas" means the product of the ratio of the interest income

earned on single family residence loans over total interest income earned, in relation to the net income of the national banking association, state bank, trust company or savings and loan association without regard to this deduction.

Sec. 11. K.S.A. 75-4237 and 79-1109 and K.S.A. 2020 Supp. 17-2205 are hereby repealed.

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

Approved February 25, 2021.

CHAPTER 3

SENATE BILL No. 27

AN ACT concerning health and environment; relating to the Kansas storage tank act; increasing the limit of certain liability amounts; reimbursements; extending the existence of the underground fund, aboveground fund, UST redevelopment fund and the UST redevelopment fund compensation advisory board; amending K.S.A. 65-34,105, 65-34,118, 65-34,119, 65-34,120, 65-34,123, 65-34,128, 65-34,134 and 65-34,139 and repealing the existing sections.

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

Section 1. K.S.A. 65-34,105 is hereby amended to read as follows: 65-34,105. (a) The secretary is authorized and directed to adopt rules and regulations necessary to administer and enforce the provisions of this act. Any rules and regulations so adopted shall be reasonably necessary to preserve, protect and maintain the waters and other natural resources of this state, and reasonably necessary to provide for the prompt investigation and cleanup of sites contaminated by a release from a storage tank. In addition, any rules and regulations or portions thereof ~~which~~ *that* pertain to underground storage tanks or the owners and operators thereof shall be adopted for the purpose of enabling the secretary and the department to implement the federal act, and such rules and regulations so adopted shall be consistent with the federal act. Consistent with these purposes, the secretary shall adopt rules and regulations:

(1) Establishing performance standards for underground storage tanks first brought into use on or after May 18, 1989. The performance standards for new underground storage tanks shall include, but are not limited to, design, construction, installation, release detection and product compatibility standards;

(2) establishing performance standards for aboveground storage tanks brought into use after May 18, 1989. The performance standards shall not exceed those performance standards adopted by the administrator of the U.S. environmental protection agency and for new aboveground storage tanks shall include, but are not limited to, design, construction, installation, release detection and product compatibility standards;

(3) establishing performance standards for the inground repair of underground storage tanks. The performance standards shall include, but are not limited to, specifying under what circumstances an underground storage tank may be repaired and specifying design, construction, installation, release detection, product compatibility standards and warranty;

(4) establishing performance standards for maintaining spill and overfill equipment, leak detection systems and comparable systems or methods designed to prevent or identify releases. In addition, the secretary shall es-

tablish standards for maintaining records and reporting leak detection monitoring, inventory control and tank testing or comparable systems;

(5) establishing requirements for reporting a release and for reporting and taking corrective action in response to a release;

(6) establishing requirements for maintaining evidence of financial responsibility to be met by owners and operators of underground storage tanks;

(7) establishing requirements for the closure of storage tanks including the removal and disposal of storage tanks and regulated substance residues contained therein to prevent future releases of regulated substances into the environment;

(8) for the approval of tank tightness testing methods, including determination of the qualifications of persons performing or offering to perform such testing;

(9) establishing site selection and cleanup criteria regarding corrective actions related to a release~~, which~~. *Such* criteria *shall* address the following: The physical and chemical characteristics of the released substance, including toxicity, persistence and potential for migration; the hydrogeologic characteristics of the release site and the surrounding land; the proximity, quality and current and future uses of groundwater; an exposure assessment; the proximity, quality and current and future use of surface water; and the level of the released substance allowed to remain on the facility following cleanup;

(10) prescribing fees for the following with regard to storage tanks: Registration, issuance of permits, approval of plans for new installations and conducting of inspections. The fees shall be established in such amounts that revenue from such fees does not exceed the amount of revenue required for the purposes provided by ~~subsection (b) of~~ K.S.A. 65-34,128*(b)*. All fees ~~for underground storage tanks shall be deposited in the state general fund and all fees for aboveground storage tanks~~ *collected pursuant to this subsection* shall be deposited in the storage tank fee fund;

(11) for determining the qualifications, adequacy of performance and financial responsibility of persons desiring to be licensed as underground storage tank installers or contractors. In adopting rules and regulations, the secretary may specify classes of specialized activities, such as the installation of corrosion protection devices or inground relining of underground storage tanks, and may require persons wishing to engage in such activities to demonstrate additional qualifications to perform these services;

(12) prescribing fees for the issuance of licenses to underground storage tank installers and contractors. The fees shall be established in such amounts that revenue from such fees does not exceed the amount of revenue determined by the secretary to be required for administration of the provisions of K.S.A. 65-34,110 and amendments thereto; and

(13) adopting schedules requiring the retrofitting of underground storage tanks in existence on May 18, 1989, and aboveground storage tanks in existence on July 1, 1992, and for the retirement from service of underground storage tanks placed in service prior to May 18, 1989, and aboveground storage tanks placed in service prior to July 1, 1992. Such schedules shall be based on the age and location of the storage tank and the type of substance stored. Such retrofitting shall include secondary containment, corrosion protection, linings, leak detection equipment and spill and overfill equipment.

(b) In adopting rules and regulations under this section, the secretary shall take notice of rules and regulations pertaining to fire prevention and safety adopted by the state fire marshal pursuant to ~~subsection (a)(1) of~~ K.S.A. 31-133*(a)(1)*, and amendments thereto.

(c) Nothing in this section shall interfere with the right of a city or county having authority to adopt a building or fire code from imposing requirements more stringent than those adopted by the secretary pursuant to subsections (a)(1), (2), (3), (7) and (13), or affect the exercise of powers by cities, counties and townships regarding the location of storage tanks and the visual compatibility of aboveground storage tanks with surrounding property.

Sec. 2. K.S.A. 65-34,118 is hereby amended to read as follows: 65-34,118. (a) Whenever the secretary has reason to believe that there is or has been a release into the environment from a petroleum storage tank and has reason to believe that such release poses a danger to human health or the environment, the secretary shall obtain corrective action for such release from the owner or operator, or both, or from any past owner or operator who has contributed to such release. Such corrective action shall be performed in accordance with a plan approved by the secretary. Upon approval of such plan, the owner or operator shall obtain and submit to the secretary at least three bids from persons qualified to perform the corrective action except that, the secretary may waive this requirement upon a showing that the owner or operator has made a good faith effort but has not been able to obtain three bids from qualified bidders.

(b) If the owner or operator is unable or unwilling to perform corrective action as provided for in subsection (a) or no owner or operator can be found, the secretary may undertake appropriate corrective action utilizing funds from the underground fund, if the release was from an underground petroleum storage tank, or from the aboveground fund, if the release was from an aboveground petroleum storage tank. Costs incurred by the secretary in taking a corrective action, including administrative and legal expenses, are recoverable from the owner or operator and may be recovered in a civil action in district court brought by the secretary. Corrective action costs recovered under this section shall be deposited in the

underground fund, if the release was from an underground petroleum storage tank, or ~~from~~ *in* the aboveground fund, if the release was from an aboveground petroleum storage tank. Corrective action taken by the secretary under this subsection need not be completed in order to seek recovery of corrective action costs, and an action to recover such costs may be commenced at any stage of a corrective action.

(c) An owner or operator shall be liable for all costs of corrective action incurred by the state of Kansas as a result of a release from a petroleum storage tank, unless the owner or operator, or both, enter into a consent agreement with the secretary in the name of the state within a reasonable period of time~~, which~~. *Such* time period may be specified by ~~rule~~ *rules* and ~~regulation~~ *regulations*. At a minimum, the owner or operator, or both, must agree that:

(1) The owner or operator shall be liable for the appropriate amounts pursuant to K.S.A. 65-34,119, and amendments thereto;

(2) the state of Kansas and the respective fund are relieved of all liability to an owner or operator for any loss of business, damages and taking of property associated with the corrective action;

(3) the department or its contractors may enter upon the property of the owner or operator, at such time and in such manner as deemed necessary, to monitor and provide oversight for the necessary corrective action to protect human health and the environment;

(4) the owner or operator shall be fully responsible for removal, replacement or retrofitting of petroleum storage tanks and the cost thereof shall not be reimbursable from the respective fund;

(5) the owner or operator shall effectuate corrective action according to a plan approved by the secretary pursuant to subsection (a);

(6) the liability of the state and the respective fund shall not exceed ~~$1,000,000~~ *$2,000,000*, less the deductible amount, for any release from a petroleum storage tank; and

(7) such other provisions as are deemed appropriate by the secretary to ensure adequate protection of human health and the environment.

(d) For purposes of this act, corrective action costs shall include the actual costs incurred for the following:

(1) Removal of petroleum products from petroleum storage tanks, surface waters, groundwater or soil;

(2) investigation and assessment of contamination caused by a release from a petroleum storage tank;

(3) preparation of corrective action plans approved by the secretary;

(4) removal of contaminated soils;

(5) soil treatment and disposal;

(6) environmental monitoring;

(7) lease, purchase and maintenance of corrective action equipment;

(8) restoration of a private or public potable water supply, where possible, or replacement thereof, if necessary; and

(9) other costs identified by the secretary as necessary for proper investigation, corrective action planning and corrective action activities to meet the requirements of this act.

Sec. 3. K.S.A. 65-34,119 is hereby amended to read as follows: 65-34,119. (a) *(1)* Subject to the provisions of subsection (b), an owner or operator is entitled to reimbursement of reasonable costs of corrective action taken in response to a release from a petroleum storage tank if:

~~(1)~~ *(A)* The owner or operator is not the United States government or any of its agencies;

~~(2)~~ *(B)* the owner or operator is in substantial compliance, as provided in subsections (e) and (f);

~~(3)~~ *(C)* the owner or operator undertakes corrective action, either through personnel of the owner or operator or through response action contractors or subcontractors; and

~~(4)~~ *(D)* the corrective action is not in response to a release from an aboveground storage tank described in K.S.A. 65-34,103(g) or (h), and amendments thereto.

(2) If the release is from an underground petroleum storage tank, reimbursement shall be from the underground fund and, if the release is from an aboveground petroleum storage tank, reimbursement shall be from the aboveground fund.

(b) Reimbursement pursuant to subsection (a) is subject to the following provisions:

(1) Except as provided in subsections (g) and (h), the owner or operator shall be liable for the first costs of corrective action taken in response to a release from any petroleum storage tank in an amount equal to $3,000 plus $500 for each such tank owned or operated by the owner or operator at the site of the release or $100,000, whichever is less. The first costs of corrective actions will be waived for any site where petroleum contamination is discovered and reported during the replacement of a single-wall underground storage tank from July 1, 2015, to June 30, ~~2020~~ *2030*, if such single-wall underground storage tank system is replaced with a secondary containment system in accordance with provisions of K.S.A. 65-34,138, and amendments thereto;

(2) the owner or operator ~~must~~ *shall* submit to and receive from the secretary approval of the proposed corrective action plan, together with projected costs of the corrective action;

(3) the secretary may, in the secretary's discretion, determine those costs ~~which~~ *that* are allowable as corrective action costs and those ~~which~~ *that* are attributable or ancillary to removal, replacement or retrofitting of storage tanks;

(4) the owner or operator, or agents thereof, shall keep and preserve suitable records demonstrating compliance with the approved corrective action plan and all invoices and financial records associated with costs for which reimbursement will be requested;

(5) within 30 days of receipt of a complete corrective action plan, or as soon as practicable thereafter, the secretary shall make a determination and provide written notice as to whether the owner or operator responsible for corrective action is eligible or ineligible for reimbursement of corrective action costs and, should the secretary determine the owner or operator is ineligible, the secretary shall include in the written notice an explanation setting forth in detail the reasons for the determination;

(6) the owner or operator shall submit to the secretary a written notice that corrective action has been completed within 30 days of completing corrective action;

(7) no later than 30 days from the submission of the notice as required by subsection (b)(6), the owner or operator must submit an application for reimbursement of corrective action costs in accordance with criteria established by the secretary, and the application for reimbursement must include the total amount of the corrective action costs and the amount of reimbursement sought. In no case shall the total amount of reimbursement exceed the lesser of the actual costs of the corrective action or the amount of the lowest bid submitted pursuant to K.S.A. 65-34,118, and amendments thereto, and approved by the secretary, less the appropriate deductible amount;

(8) interim payments shall be made to an owner or operator in accordance with the plan approved by the secretary pursuant to K.S.A. 65-34,118, and amendments thereto, except that the secretary, for good cause shown, may refuse to make interim payments or withhold the final payment until completion of the corrective action;

(9) the owner or operator shall be fully responsible for removal, replacement or retrofitting of petroleum storage tanks and the cost thereof, and costs attributable or ancillary thereto, shall not be reimbursable from the respective fund;

(10) the owner or operator shall provide evidence satisfactory to the secretary that corrective action costs equal to the appropriate deductible amount have been paid by the owner or operator, and such costs shall not be reimbursed to the owner or operator;

(11) with regard to an underground petroleum storage tank, the owner or operator submits to the secretary proof, satisfactory to the secretary, that: (A) Such owner or operator is unable to satisfy the criteria for self-insurance under the federal act; or (B) such owner or operator is able to satisfy the criteria for self-insurance under the federal act but the release is from an underground petroleum storage tank not located at a facility engaged in production or refining of petroleum;

(12) with regard to an aboveground petroleum storage tank, the owner or operator submits to the secretary proof, satisfactory to the secretary, that the release is from an aboveground petroleum storage tank not located at a facility engaged in production or refining of petroleum; and

(13) the owner or operator shall be liable for all costs ~~which~~ *that* are paid by or for which the owner or operator is entitled to reimbursement from insurance coverage, warranty coverage or any other source.

(c) For the purpose of determining an owner's or operator's eligibility for reimbursement and the applicable deductible of such owner or operator, the secretary shall consider all owners and operators owned or controlled by the same interests to be a single owner or operator, except that each state agency to which moneys are appropriated shall be considered individually as an owner or operator for such purpose.

(d) Notwithstanding the provisions of K.S.A. 65-34,118(c), and amendments thereto, should the secretary find that any of the following situations exist, any or all owners or operators shall, in the discretion of the secretary, be liable for 100% of costs associated with corrective action necessary to protect health or the environment, if:

(1) The release was due to willful or wanton actions by the owner or operator;

(2) the owner or operator is in arrears for moneys owed, other than environmental assurance fees, to either the underground fund or the aboveground fund;

(3) the release was from a tank not registered with the department;

(4) the owner or operator fails to comply with any provision of the agreement specified in K.S.A. 65-34,118(c), and amendments thereto;

(5) the owner or operator moves in any way to obstruct the efforts of the department or its contractors to investigate the presence or effects of a release or to effectuate corrective action;

(6) the owner or operator is not in substantial compliance with any provision of this act or rules and regulations promulgated hereunder; or

(7) the owner or operator allowed, failed to report or failed to take corrective action in response to such release, knowing or having reason to know of such release.

(e) Except as otherwise provided in subsections (f) and (g), an owner or operator is in substantial compliance with this act and the rules and regulations adopted hereunder, if:

(1) Each petroleum storage tank owned or operated by such owner or operator has been registered with the secretary, in accordance with the applicable laws of this state and any rules and regulations adopted thereunder;

(2) the owner or operator has entered into an agreement with the secretary, as provided in K.S.A. 65-34,118(c), and amendments thereto;

(3) the owner or operator has complied with any applicable financial responsibility requirements imposed by the Kansas storage tank act and the rules and regulations adopted thereunder; and

(4) the owner or operator has otherwise made a good faith effort to comply with the federal act if applicable, this act, any other law of this state regulating petroleum storage tanks and all applicable rules and regulations adopted under any of them.

(f) An owner or operator shall be deemed to be in substantial compliance with this act with respect to the following tanks if such owner or operator has notified the department, on forms provided by the department, of the tank's existence, including age, size, type, location, associated equipment and uses:

(1) Any farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) any aboveground tank of less than 660 gallons capacity; and

(3) any tank used for storing heating oil for consumptive use on the single family residential premise where stored.

(g) (1) Except as provided by ~~subsection (g)~~ *paragraph* (2), a person who owns property where a petroleum storage tank is located shall not be required to register such tank to be eligible for reimbursement from the respective fund of all costs of any necessary corrective action taken in response to a release from such tank and shall not be subject to the provisions of subsection (b)(1) if such person has at no time placed petroleum in such tank or withdrawn petroleum from such tank and such person:

(A) Submitted a corrective action plan prior to July 1, 1990, with respect to an underground petroleum storage tank, or prior to July 1, 1993, with respect to an aboveground petroleum storage tank;

(B) acquired such tank before December 22, 1988; or

(C) acquired such tank by intestate succession or testamentary disposition.

(2) A person shall not be eligible for reimbursement under ~~subsection (g)~~ *paragraph* (1) unless the owner or operator of the tank is unable or unwilling to perform corrective action or cannot be found, in which case the secretary may recover all reimbursement paid, and any related administrative and legal expenses, from the owner or operator as provided by K.S.A. 65-34,118(b), and amendments thereto.

(h) An owner or operator shall be entitled, upon written notification to the secretary, to elect between the deductible provided by this section before July 1, 1992, and the deductible provided by this section on and after July 1, 1992, with respect to costs of corrective action taken on or after April 1, 1990, if such owner or operator has applied before July 1, 1992, for reimbursement of such costs from the respective fund. If an owner or operator or former owner or operator has paid a deductible that is greater

than the deductible provided by this section on and after July 1, 1992, such owner or operator or former owner or operator may apply to the secretary for a refund of the difference in such deductibles. If the owner or operator or former owner or operator has died or no longer exists, no such refund shall be paid.

Sec. 4. K.S.A. 65-34,120 is hereby amended to read as follows: 65-34,120. (a) Nothing in this act shall establish or create any liability or responsibility on the part of the secretary, the department or its agents or employees~~,~~ or the state of Kansas to pay any corrective action costs from any source other than the respective fund created by this act.

(b) In no event shall the underground fund be liable for the payment of corrective action costs in an amount in excess of the following, less any applicable deductible amounts of the owner or operator:

(1) For costs incurred in response to any one release from an underground petroleum storage tank, ~~$1,000,000~~ *$2,000,000*;

(2) ~~subject to the provisions of subsection (a)(4),~~ for an owner or operator of 100 or fewer underground petroleum storage tanks, an annual aggregate of $1,000,000; and

(3) ~~subject to the provisions of subsection (a)(4),~~ for an owner or operator of more than 100 underground petroleum storage tanks, an annual aggregate of $2,000,000.

(c) In no event shall the aboveground fund be liable for the payment of corrective action costs in an amount in excess of the following, less the deductible amounts of the owner or operator:

(1) For costs incurred in response to any one release from an aboveground petroleum storage tank, ~~$1,000,000~~ *$2,000,000*;

(2) for an owner or operator of 100 or fewer aboveground petroleum storage tanks, an annual aggregate of $1,000,000; and

(3) for an owner or operator of more than 100 aboveground petroleum storage tanks, an annual aggregate of $2,000,000.

(d) This act is intended to assist an owner or operator only to the extent provided for in this act, and it is in no way intended to relieve the owner or operator of any liability that cannot be satisfied by the provisions of this act.

(e) Neither the secretary nor the state of Kansas shall have any liability or responsibility to make any payments for corrective action if the respective fund created herein is insufficient to do so. In the event the respective fund is insufficient to make the payments at the time the claim is filed, such claims shall be paid in the order of filing at such time as moneys are paid into the respective fund.

(f) No common-law liability, and no statutory liability ~~which~~ *that* is provided in a statute other than in this act, for damages resulting from a release from a petroleum storage tank is affected by this act. The au-

thority, power and remedies provided in this act are in addition to any authority, power or remedy provided in any statute other than a section of this act or provided at common law.

(g) If a person conducts a corrective action activity in response to a release from a petroleum storage tank, whether or not the person files a claim against the respective fund under this act, the claim and corrective action activity conducted are not evidence of liability or an admission of liability for any potential or actual environmental pollution or third-party claim.

Sec. 5. K.S.A. 65-34,123 is hereby amended to read as follows: 65-34,123. The underground fund and the aboveground fund shall be and are hereby abolished on July 1, ~~2024~~ *2034*.

Sec. 6. K.S.A. 65-34,128 is hereby amended to read as follows: 65-34,128. (a) There is hereby established as a segregated fund in the state treasury the storage tank fee fund. Revenue from the following sources shall be deposited in the state treasury and credited to the fund:

(1) Moneys collected from fees for registration of ~~aboveground~~ storage tanks, issuance of storage tank permits, approval of plans for new storage tank installations and conducting of storage tank inspections;

(2) any moneys received by the secretary in the form of gifts, grants, reimbursements or appropriations from any source intended to be used for the purposes of the fund; and

(3) interest attributable to investment of moneys in the fund.

(b) Moneys in the storage tank fee fund shall be expended only for:

(1) Enforcement of storage tank performance standards and registration requirements;

(2) programs intended to prevent releases from storage tanks; and

(3) administration of the provisions of the Kansas storage tank act.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the storage tank fee fund interest earnings based on:

(1) The average daily balance of moneys in the storage tank fee 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 storage tank 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 for the purposes set forth in this section.

(e) This section shall be *a* part of and supplemental to the Kansas storage tank act.

Sec. 7. K.S.A. 65-34,134 is hereby amended to read as follows: 65-34,134. The UST redevelopment fund compensation advisory board and

the UST redevelopment fund shall be and are hereby abolished on July 1, ~~2024~~ *2032*. At the time of such abolishment, remaining funds shall be deposited in the underground fund.

Sec. 8. K.S.A. 65-34,139 is hereby amended to read as follows: 65-34,139. (a) The secretary may provide for the reimbursement to eligible owners of underground storage tanks in accordance with the provisions of this section up to $3,000,000 per state fiscal year and subject to the availability of moneys in the UST redevelopment fund. An owner of an underground storage tank shall be eligible for reimbursement under this section if the:

(1) Underground storage tank system is used for the storage of petroleum products for resale and is subject to the environmental assurance fee in accordance with provisions of K.S.A. 65-34,117, and amendments thereto;

(2) owner has been approved by the secretary and is not the United States government or any federal agency;

(3) owner replaces all components of a single-wall storage tank system with a secondary containment system that complies with K.S.A. 65-34,138, and amendments thereto, after August 8, 2005, and before June 30, ~~2020~~ *2030*;

(4) owner is in substantial compliance with the Kansas storage tank act;

(5) owner provides 30-day notice and access to the department to perform an environmental assessment of the site:

(A) During replacement of the single-wall storage tank system with the secondary containment system installation, if done after July 1, 2015; and

(B) that determines that petroleum contamination exists and the owner applies to the underground fund to perform corrective action to address the contamination; and

(6) underground storage tank was registered with the department on or after May 1, 1981.

(b) Reimbursement pursuant to subsection (a) is subject to the following:

(1) For replacements undertaken after July 1, 2015, the storage tank owner must submit an application for reimbursement on forms supplied by the department and receive approval from the secretary of the proposed secondary containment system plan;

(2) upon approval of such plan, the owner shall obtain and submit to the secretary at least three bids from persons qualified to perform the secondary containment system installation except that, the secretary may waive this requirement upon a showing that the owner has made a good faith effort, but has not been able to obtain three bids from qualified bidders;

(3) for replacements undertaken before July 1, 2015, the owner must submit an application for reimbursement on forms supplied by the department with proof of costs and receive approval from the secretary; and

(4) the secretary may, in the secretary's discretion, determine those costs ~~which~~ *that* are allowable as secondary containment system installation costs.

(c) Applications for reimbursement must include documentation of the secondary containment system installation and expense. Proof of payment of all expenses for which reimbursement is requested must be provided. The department will review those expenses based on current industry costs and provide reimbursement of reasonable and necessary costs. The department shall reimburse an applicant for the approved cost of the secondary containment system not to exceed $50,000 per facility *for replacement work completed on and after August 8, 2005, and prior to July 1, 2020. The department shall reimburse an applicant for the approved cost of the secondary containment system not to exceed $100,000 per facility for replacement work completed on and after July 1, 2020, and prior to July 1, 2030. Any applicant who did not receive the maximum reimbursement amount allowable for work completed after July 1, 2020, may submit a written request to the department for the remaining reimbursement amount for work completed. Such written requests shall include documentation of all expenses for which reimbursement is requested and documentation of reimbursements previously received for work completed*.

(d) The secretary may adopt such rules and regulations deemed necessary to carry out the provisions of this section.

(e) The provisions of this section shall be *a* part of and supplemental to the Kansas storage tank act.

Sec. 9. K.S.A. 65-34,105, 65-34,118, 65-34,119, 65-34,120, 65-34,123, 65-34,128, 65-34,134 and 65-34,139 are hereby repealed.

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

Approved March 3, 2021.

CHAPTER 4

House Substitute for SENATE BILL No. 88
(Amended by Chapter 87)

AN ACT concerning cities; establishing the city utility low-interest loan program; allowing cities to apply to the state treasurer for loans from state unencumbered funds for extraordinary electric or natural gas costs incurred during the extreme winter weather event of February 2021; amending K.S.A. 75-4237 and repealing the existing section.

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

New Section 1. (a) Sections 1 through 6, and amendments thereto, shall be known and may be cited as the city utility low-interest loan program.

(b) The city utility low-interest loan program shall be a part of and supplemental to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 2. As used in the city utility low-interest loan program:

(a) "City" means a city organized and existing under the laws of Kansas;

(b) "director of investments" means the person appointed as the director of investments pursuant to K.S.A. 75-4222, and amendments thereto;

(c) "loan" means a deposit of unencumbered state funds to a city pursuant to the program; and

(d) "program" means the city utility low-interest loan program.

New Sec. 3. (a) (1) The state treasurer is hereby authorized to administer the city utility low-interest loan program.

(2) The program shall be for the purpose of providing loans to cities for extraordinary electric or natural gas costs incurred during the extreme winter weather event of February 2021.

(3) The total aggregate amount of loans under the program shall not exceed $100,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(b) The state treasurer shall adopt all rules and regulations necessary to administer the provisions of the program including the development of a streamlined application process. Such rules and regulations shall be adopted not later than January 1, 2022, except that such streamlined application process shall be established within 14 days from the effective date of this act. The adoption of such rules and regulations shall not be a prerequisite for the approval of loans by the state treasurer under the program. The state treasurer shall approve loans under the program in the most expeditious manner possible on or after the effective date of this act.

(c) The state treasurer shall submit an annual report to the governor and the legislature identifying the cities that are participating in the program. Such annual report shall provide the aggregate amount of moneys

loaned and the amount of moneys still available for loan, if any. Such report shall be due on or before January 1, 2022, and each January 1 thereafter.

(d) The legislature shall perform a review of the program as part of the state treasurer's annual report on or after January 1, 2024.

New Sec. 4. (a) The state treasurer is hereby authorized to disseminate information and to provide loan applications as soon as practicable on or after the effective date of this act to cities for participation in the program.

(b) A city shall forward to the state treasurer an application in the form and manner prescribed and approved by the state treasurer. The application shall include information regarding the amount of the loan requested by the city and such other information that the state treasurer may require, including, but not limited to, the specific fund or account of the city in which loan proceeds shall be deposited. Such application shall contain a certification by the governing body of the city that, if the city receives any federal moneys related to the extreme winter weather event of February 2021, the first priority for expenditure of such moneys shall be for the payment of any outstanding balance of a loan made to the city under the program.

(c) The loan shall be only for those extraordinary electric or natural gas costs incurred during the extreme winter weather event of February 2021, as certified by the governing body of the city, and not for any other utility costs previously budgeted for by the city.

(d) No loan shall be amortized for a period of more than 10 years. Payments on such loan shall not be required to be made more frequently than annually but may be made more frequently upon agreement between the city and the state treasurer.

New Sec. 5. (a) The state treasurer may accept or reject an application based on the state treasurer's evaluation of whether the city meets the requirements of the program. If sufficient funds are not available for a loan, the applications may be considered in the order received when funds are once again available.

(b) Upon acceptance of an application, the state treasurer shall certify to the director of investments the amount required for such loan and the director of investments shall place a deposit of such certified amount with the specific fund or account of the city indicated in the loan application and approved by the state treasurer. The interest rate on a loan shall be 2% below the market rate as provided in K.S.A. 75-4237, and amendments thereto, and shall be recalculated on the first business day of January of each year using the market rate then in effect. The minimum interest rate shall be 0.25% if the market rate is below 2.25%. When necessary, the state treasurer may request the director of investments to place such deposit with the city prior to approval of an application.

(c) All moneys received by the state treasurer from cities for payment of loans made under the program shall be deposited in the state treasury to the credit of the pooled money investment portfolio.

New Sec. 6. (a) To the extent that any provisions of sections 1 through 6, and amendments thereto, conflict with the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, or any other provision of law, the provisions of sections 1 through 6, and amendments thereto, shall control.

(b) Any loan made to a city under the program shall not be considered bonded indebtedness for the purposes of K.S.A. 10-308, and amendments thereto, or any other statute imposing a limitation on indebtedness of a city.

Sec. 7. K.S.A. 75-4237 is hereby amended to read as follows: 75-4237. (a) The director of investments shall accept requests from banks interested in obtaining investment accounts of state moneys. Such requests may be submitted any business day and shall specify the dollar amount and maturity. The director of investments is authorized to award the investment account to the requesting bank at the market rate established by subsection (b). Awards of investment accounts pursuant to this section shall be subject to investment policies of the pooled money investment board. When multiple requests are received and are in excess of the amount available for investment that day for any maturity, awards shall be made available in ascending order from smallest to largest dollar amount requested, subject to investment policies of the board.

(b) The market rate shall be determined each business day by the director of investments, in accordance with any procedures established by the pooled money investment board. Subject to any policies of the board, the market rate shall reflect the highest rate at which state moneys can be invested on the open market in investments authorized by ~~subsection (a) of~~ K.S.A. 75-4209*(a)*, and amendments thereto, for equivalent maturities.

(c) (1) Notwithstanding the provisions of this section, linked deposits made pursuant to the provisions of K.S.A. 2-3703 through 2-3707, and amendments thereto, shall be at an interest rate ~~which~~ *that* is 2% less than the market rate determined under this section and ~~which~~ *that* shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(2) Notwithstanding the provisions of this section, agricultural production loan deposits made pursuant to the provisions of K.S.A. 75-4268 through 75-4274, and amendments thereto, shall be at *an interest rate that is* 2% less than the market rate provided by this section and ~~which~~ *that* shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(3) Notwithstanding the provisions of this section, loan deposits made pursuant to the city utility low-interest loan program shall be at an inter-

est rate that is 2% less than the market rate provided by this section and that shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(d) *(1)* The director of investments may place deposits through a selected bank, savings and loan association or savings bank ~~which~~ *that* is part of a reciprocal deposit program in which the bank, savings and loan association or savings bank:

~~(1)~~*(A)* Receives reciprocal deposits from other participating institutions located in the United States in an amount equal to the amount of funds deposited by the municipal corporation or quasi-municipal corporation; and

~~(2)~~*(B)* for which the total cumulative amount of each deposit does not exceed the maximum deposit insurance amount for one depositor at one financial institution as determined by the federal deposit insurance corporation.

(2) Such deposits shall not be treated as securities and need not be secured as provided in this or any other act, except that such deposits shall be secured as provided in K.S.A. 75-4218, and amendments thereto, when they are held by the selected financial institution prior to placement with reciprocal institutions or upon maturity.

(e) The pooled money investment board shall establish procedures for administering reciprocal deposit programs in its investment policies, as authorized by K.S.A. 75-4232, and amendments thereto.

Sec. 8. K.S.A. 75-4237 is hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 3, 2021.

Published in the *Kansas Register* March 4, 2021.

CHAPTER 5

Substitute for HOUSE BILL No. 2049

AN ACT concerning the legislative division of post audit; relating to audits; prohibiting a public agency from charging a fee for records requested therefor; amending K.S.A. 2020 Supp. 46-1114 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 46-1114 is hereby amended to read as follows: 46-1114. (a) The legislative post audit committee is hereby authorized to direct the post auditor and the division of post audit to make an audit of any type described in K.S.A. 46-1106 or 46-1108, and amendments thereto, of any records or matters of any person specified in this section, and may direct the object in detail of any such audit.

(b) Upon receiving any such direction, the post auditor with the division of post audit, shall make such audit and shall have access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, to the same extent permitted under K.S.A. 46-1106(e), and amendments thereto, except that such access shall be subject to the limitations established under subsection (d).

(c) Audits authorized by this section are the following:

(1) Audit of any local subdivision of government or agency or instrumentality thereof which receives any distribution of moneys from or through the state.

(2) Audit of any person who receives any grant or gift from or through the state.

(3) Audit of the contract relationships and the fiscal records related thereto of any person who contracts with the state.

(4) Audit of any person who is regulated or licensed by any state agency or who operates or functions for the benefit of any state institution except that any audit of any person regulated by the state corporation commission shall address only compliance with laws or regulations, collection or remittance of taxes or fees, or other matters related directly to state government programs or functions. Any such audit authorized under this subsection shall not address corporate governance or financial issues except as they may relate directly to state government programs or functions. This subsection shall not apply to public utilities as described in K.S.A. 66-1,187(l), and amendments thereto.

(d) (1) Access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, as authorized under subsection (b) of any nongovernmental person audited under authority of subsection (c) (2) shall be limited to those books, accounts, records, files, documents and correspondence, confidential or otherwise, of such person to which the

state governmental agency that administers the grant or gift and provides for the disbursement thereof is authorized under law to have access.

(2) Access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, as authorized under subsection (b) of any nongovernmental person audited under authority of subsection (c)(3) shall be limited to those books, accounts, records, files, documents and correspondence, confidential or otherwise, of such person to which the state governmental agency that contracts with such person is authorized under law to have access.

(3) Access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, as authorized under subsection (b) of any nongovernmental person audited under authority of subsection (c)(4) shall be limited to those books, accounts, records, files, documents and correspondence, confidential or otherwise, of such person to which the state governmental agency that regulates or licenses such person or the state institution on whose behalf such person operates or functions is authorized under law to have access.

(e) Notwithstanding any other provision of law, no public agency that is the subject of an audit pursuant to this section or any other law shall charge a fee for copies of or access to the records described in subsection (b).

Sec. 2. K.S.A. 2020 Supp. 46-1114 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 11, 2021.

CHAPTER 6

SENATE BILL No. 33
(Amended by Chapter 20)

AN ACT concerning motor vehicles; relating to the vehicle dealers and manufacturers licensing act; providing for a display show license; allowing for new vehicle dealers and manufacturers to participate in display shows; amending K.S.A. 2020 Supp. 8-2435 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 8-2435 is hereby amended to read as follows: 8-2435. (a)*(1)* Upon proper application, on a form approved by the division of vehicles, the director of vehicles may authorize the display of new motor vehicles *of a new vehicle dealer* at a location other than the established or supplemental place of business of a motor vehicle dealer provided that the requirements of ~~subsections (i) and (n) of~~ K.S.A. 8-2404~~, and amendments thereto,~~*(i) and (n)* and ~~K.S.A.~~ 8-2405, and amendments thereto, are satisfied by the motor vehicle dealer. A fee in the amount of $15 shall be paid by an applicant for each application. No sales transactions*, leases or test drives* may occur at such display locations.

(2) (A) Upon proper application on a form approved by the division of vehicles, the director of vehicles may issue a license known as a temporary display show license to a sponsor of such display show that is responsible for organizing and operating the display show under such terms and conditions as the director may reasonably require. A fee in the amount of $100 shall be paid by the sponsor applying for each application and each participant displaying vehicles shall pay a fee of $35 to the sponsor. The sponsor shall remit all fees to the director. New vehicle dealers, first stage manufacturers, second stage manufacturers, first stage converters, second stage converters and distributors may attend and participate in the display of new motor vehicles under this subparagraph and may display vehicles without regard to geographical territorial assignment or relevant market area, as defined in K.S.A. 8-2430, and amendments thereto. New motor vehicle dealers participating in a display show may do so without the approval of any first stage manufacturer, second stage manufacturer, first stage converter, second stage converter or distributor who may not bar or treat such new vehicle dealer adversely for participating in a display show. No sales or lease transactions may occur at a display show, but test drives for purposes other than the sale or lease of a vehicle may be made to demonstrate the vehicle and its features.

(B) For purposes of this paragraph, "display show" means a display of new motor vehicles that does not fall under the description set forth in subsection (a)(1) or K.S.A. 8-2444(a), and amendments thereto.

(b) Authorization granted by the director under ~~this section~~ *subsection (a)(1)* shall be granted only to motor vehicle dealers licensed by the director and to no other person, natural or otherwise. The authorization shall be for a period not to exceed 15 consecutive days unless otherwise authorized by the director of vehicles. *A sponsor under subsection (a)(2) is not required to be a licensed new vehicle dealer, but participating new vehicle dealers must be licensed motor vehicle dealers or the participant must be a first stage manufacturer, second stage manufacturer, first stage converter second stage converter or distributor for such manufacturers or converter. Such type of participant is not required to be licensed to participate.*

(c) Authorization to display under this section shall not be granted for events for which a temporary trade show license under K.S.A. 2020 Supp. 8-2444, and amendments thereto, would be required.

(d) The director may deny an application for a license under this section if the director:

(1) Has probable cause to believe that the applicant's request for a license should be made under the provisions of K.S.A. 2020 Supp. 8-2444, and amendments thereto; or

(2) the request for a license under this section is being made to avoid compliance with the provisions of K.S.A. 2020 Supp. 8-2444, and amendments thereto.

(e) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

Sec. 2. K.S.A. 2020 Supp. 8-2435 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 11, 2021.

CHAPTER 7

SENATE BILL No. 40
(Amends Chapter 1)

AN ACT concerning governmental response to certain emergencies; prescribing powers, duties and functions of the board of education of each school district, the governing body of each community college and the governing body of each technical college related to the COVID-19 health emergency and establishing judicial review thereof; adding the vice president of the senate to the legislative coordinating council; modifying the procedure for the declaration and extension of a state of disaster emergency under the Kansas emergency management act; authorizing the legislative coordinating council and the legislature to take certain actions related to a state of disaster emergency; prohibiting certain actions by the governor related to the COVID-19 health emergency and revoking all executive orders related to such emergency on March 31, 2021; limiting powers granted to the governor during a state of disaster emergency; establishing judicial review for certain executive orders issued during a state of disaster emergency and certain actions taken by a local unit of government during a state of local disaster emergency; providing criminal penalties for a knowing violation of certain executive orders; adding 911 call center public safety telecommunicators and physician assistants to the definition of emergency responder; authorizing the legislature or the legislative coordinating council to revoke certain orders issued by the secretary of health and environment; limiting powers granted to local health officers related to certain orders and establishing judicial review thereof; amending K.S.A. 46-1201, 65-101 and 75-3711 and K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, 48-932, 48-939, 48-949 and 65-201 and repealing the existing sections; also repealing K.S.A. 2019 Supp. 48-925, as amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-925b.

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

New Section 1. (a) (1) During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, only the board of education responsible for the maintenance, development and operation of a school district shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency that affects the operation of any school or attendance center of such school district, including, but not limited to, any action, order or policy that:

(A) Closes or has the effect of closing any school or attendance center of such school district;

(B) authorizes or requires any form of attendance other than full-time, in-person attendance at a school in the school district, including, but not limited to, hybrid or remote learning; or

(C) mandates any action by any students or employees of a school district while on school district property.

(2) An action taken, order issued or policy adopted by the board of education of a school district pursuant to paragraph (1) shall only affect

the operation of schools under the jurisdiction of the board and shall not affect the operation of nonpublic schools.

(3) During any such disaster emergency, the state board of education, the governor, the department of health and environment, a local health officer, a city health officer or any other state or local unit of government may provide guidance, consultation or other assistance to the board of education of a school district but shall not take any action related to such disaster emergency that affects the operation of any school or attendance center of such school district pursuant to paragraph (1).

(b) Any meeting of a board of education of a school district discussing an action, order or policy described in this section, including any hearing by the board under subsection (c), shall be open to the public in accordance with the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted by electronic audio-visual communication when necessary to secure the health and safety of the public, the board and employees.

(c) (1) An employee, a student or the parent or guardian of a student aggrieved by an action taken, order issued or policy adopted by the board of education of a school district pursuant to subsection (a)(1), or an action of any employee of a school district violating any such action, order or policy, may request a hearing by such board of education to contest such action, order or policy within 30 days after the action was taken, order was issued or policy was adopted by the board of education. Any such request shall not stay or enjoin such action, order or policy.

(2) Upon receipt of a request under paragraph (1), the board of education shall conduct a hearing within 72 hours of receiving such request for the purposes of reviewing, amending or revoking such action, order or policy. The board shall issue a decision within seven days after the hearing is conducted.

(3) The board of education may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(d) (1) An employee, a student or the parent or guardian of a student aggrieved by a decision of the board of education under subsection (c)(2) may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after such decision is issued by the board. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds the action taken, order issued or policy adopted by the board of education is narrowly tailored to respond to the state of disaster

emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action taken, order issued or policy adopted by the board of education that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

New Sec. 2. (a) (1) During the state of disaster emergency related to the COVID-19 health emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, only the governing body of a community college, as established pursuant to K.S.A. 71-201, and amendments thereto, or the governing body of a technical college, as established pursuant to K.S.A. 74-32,452, and amendments thereto, shall have the authority to take any action, issue any order or adopt any policy made or taken in response to such disaster emergency that affects the operation of the community college or technical college governed by such governing body, including, but not limited to, any action, order or policy that:

(A) Closes or has the effect of closing any community college or technical college;

(B) authorizes or requires any form of attendance at any community college or technical college; or

(C) mandates any action by any students or employees of a community college or technical college while on college property.

(2) During any such disaster emergency, the state board of regents, the governor, the department of health and environment, a local health officer, a city health officer, the Kansas association of community college trustees, the Kansas technical college association or any other state or local unit of government may provide guidance, consultation or other assistance to the governing body of a community college or technical college, but shall not take any action related to such disaster emergency that affects the operation of any such college.

(b) Any meeting of a governing body of a community college or technical college discussing an action, order or policy described in this section, including any hearing by such governing body under subsection (c), shall be open to the public in accordance with the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted by electronic audio-visual communication when necessary to secure the health and safety of the public, the governing body and employees.

(c) (1) An employee or a student aggrieved by an action taken, order issued or policy adopted by the governing body of a community college or technical college pursuant to subsection (a)(1), or an action of any employee of such college violating any such action, order or policy, may request a hearing by such governing body to contest such action, order or policy. Any such request shall not stay or enjoin such action, order or policy.

(2) Upon receipt of a request under paragraph (1), the governing body shall conduct a hearing within 72 hours of receiving such request for the purposes of reviewing, amending or revoking such action, order or policy. The governing body shall issue a decision within seven days after the hearing is conducted.

(3) The governing body may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(d) (1) An employee or a student aggrieved by a decision of the governing body under subsection (c)(2) may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after such decision is issued by the governing body. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds the action taken, order issued or policy adopted by the governing body is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action taken, order issued or policy adopted by the governing body that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 3. K.S.A. 46-1201 is hereby amended to read as follows: 46-1201. (a) There is hereby established the legislative coordinating council which shall have ~~seven (7)~~ *eight* members. Such members shall be the president of the senate, the speaker of the house of representatives, *the vice president of the senate,* the speaker pro tem of the house of representatives,

the majority leader of the senate, the majority leader of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives.

(b) In even-numbered years, the speaker of the house of representatives shall be ~~chairman~~ *chairperson* of the legislative coordinating council, and the president of the senate shall be ~~vice chairman thereof~~ *vice chairperson*. In odd-numbered years, the president of the senate shall be ~~chairman~~ *chairperson* of the legislative coordinating council, and the speaker shall be ~~vice chairman thereof~~ *vice chairperson*.

(c) The legislative coordinating council shall meet at least once each month in the interim between legislative sessions. Such council shall meet on the call of ~~its chairman~~ *the chairperson* or any three members of the council. The director of legislative administrative services, director of legislative research, revisor of statutes and each member of the legislature shall be given notice of each meeting of the council by ~~its chairman~~ *the chairperson*, except in cases of emergency. Each such notice shall state the date, time and place of the meeting. The ~~chairman~~ *chairperson* also shall cause minutes to be prepared for each meeting of the council, and a copy thereof shall be sent to each person who is required to receive notice of the council's meetings by this subsection. It shall not be necessary to transmit with such minutes any accompanying documents for any item of business, but the minutes shall indicate whether there are supportive documents for any item of business, the nature of such documents and where they are filed or stored.

Sec. 4. K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-924. (a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) (1) Subject to the provisions of K.S.A. 2020 Supp. 48-924b, and amendments thereto, the governor, upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency.

(2) In addition to or instead of the proclamation authorized by K.S.A. 47-611, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 47-611, and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency. In addition to or instead of any actions pursuant to the provisions of K.S.A. 2-2114, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 2-2112 et seq., and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among plants, raw agricultural commodities, animal feed or processed food of any con-

tagious or infectious disease, may issue a proclamation declaring a state of disaster emergency.

(3) The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist. Upon making such findings the governor shall terminate the state of disaster emergency by proclamation, but except as provided in paragraph (4), no state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the ~~state finance council~~ *legislative coordinating council* and an affirmative vote of ~~a majority~~ *five* of the ~~legislative~~ members thereof, a state of disaster emergency may be extended ~~once~~ for ~~a~~ specified ~~period not to exceed 30 days beyond such 15-day period~~ *periods not to exceed 30 days each*.

(4) If the state of disaster emergency is proclaimed pursuant to paragraph (2), the governor shall terminate the state of disaster emergency by proclamation within 15 days, unless ratified by concurrent resolution of the legislature, except that when the legislature is not in session and upon specific application by the governor to the ~~state finance~~ *legislative coordinating* council and an affirmative vote of ~~a majority of the legislative~~ *five* members thereof, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The ~~state finance~~ *legislative coordinating* council may authorize additional extensions of the state of disaster emergency by ~~a unanimous~~ *an affirmative* vote of ~~the legislative~~ *five* members thereof for specified periods not to exceed 30 days each. Such state of disaster emergency shall be terminated on the 15th day of the next regular legislative session following the initial date of the state of disaster emergency unless ratified by concurrent resolution of the legislature.

(5) The state of disaster emergency described in K.S.A. 2020 Supp. 48-924b, and amendments thereto, shall terminate ~~on September 15, 2020,~~ as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto, except that when the legislature is not in session or is adjourned during session for three or more days, and upon specific application by the governor to the ~~state finance~~ *legislative coordinating* council and an affirmative vote of ~~at least six of the legislative members of the council~~ *five members thereof*, this state of disaster emergency may be extended for specified periods not to exceed 30 days each. ~~No such extension granted by the state finance council shall continue past March 31, 2021.~~

(6) At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency.

(7) Any proclamation declaring or terminating a state of disaster emergency ~~which~~ *that* is issued under this ~~subsection~~ *section* shall indicate the nature of the disaster, the area or areas *of the state* threatened or affected by the disaster and the conditions ~~which~~ *that* have brought about, or ~~which~~ *that* make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency management, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area *or areas of the state* to which such proclamation applies.

(c) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, an officer specified in K.S.A. 48-1204, and amendments thereto, in the order of succession provided by that section, may issue a proclamation declaring a state of disaster emergency in the manner provided in and subject to the provisions of subsection ~~(a)~~ *(b)*. During a state of disaster emergency declared pursuant to this subsection, such officer may exercise the powers conferred upon the governor by K.S.A. 48-925, and amendments thereto. If a preceding officer in the order of succession becomes able and available, the authority of the officer exercising such powers shall terminate and such powers shall be conferred upon the preceding officer. Upon the return of the governor to the state or the removal of ~~any~~ *the* constitutional disability of the governor, the authority of an officer to exercise the powers conferred by this section shall terminate immediately and the governor shall resume the full powers of the office. Any *such* state of disaster emergency and any actions taken by an officer under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminated by the governor in the manner prescribed by law.

(d) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the ~~political subdivisions or~~ areas *of the state and any political subdivisions thereof* affected by the proclamation. Such proclamation shall ~~be~~ *constitute the* authority *necessary* for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

(e) The governor, when advised pursuant to K.S.A. 74-2608, and amendments thereto, that conditions indicative of drought exist, ~~shall be~~ *is* authorized to declare by proclamation that a state of drought exists. This declaration of a state of drought can be for specific areas or communities,

can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.

Sec. 5. K.S.A. 2020 Supp. 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-924b. (a) The state of disaster emergency that was declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, as a result of the COVID-19 health emergency, by proclamation on March 12, 2020, which was ratified and continued in force and effect through May 1, 2020, by 2020 House Concurrent Resolution No. 5025, adopted by the house of representatives with the senate concurring therein on March 19, 2020, declared by proclamation on April 30, 2020, which was extended and continued in existence by the state finance council on May 13, 2020, for an additional 12 days through May 26, 2020, and declared by proclamation on May 26, 2020, which was ratified and continued in existence through September 15, 2020, by this section, extended and continued in existence by the state finance council on September 11, 2020, for an additional 30 days through October 15, 2020, extended and continued in existence by the state finance council on October 7, 2020, for an additional 30 days through November 15, 2020, extended and continued in existence by the state finance council on November 13, 2020, for an additional 30 days through December 15, 2020, extended and continued in existence by the state finance council on December 11, 2020, for an additional 26 days through January 10, 2021, ~~and~~ extended and continued in existence by the state finance council on January 6, 2021, for an additional 16 days through January 26, 2021, *and ratified and continued in existence through March 31, 2021, by this section* for all 105 counties of Kansas, is hereby ratified and continued in existence from March 12, 2020, through ~~March 31~~ *May 28*, 2021.

(b) The governor shall not proclaim any new state of disaster emergency related*, in whole or in part,* to the COVID-19 health emergency*, including, but not limited to, any economic, financial or other crisis caused by such emergency,* during 2020 or 2021, unless the governor makes specific application to the ~~state finance~~ *legislative coordinating* council and an affirmative vote of ~~at least six of the legislative~~ *five* members ~~of the council approve~~ *thereof approves* such action by the governor.

(c) Notwithstanding any other provision of law to the contrary, all executive orders issued during the state of disaster emergency ratified and continued in existence pursuant to this section related to the COVID-19 health emergency are hereby revoked on March 31, 2021, and shall be null and void. Any new executive orders issued during the state of disaster emergency ratified and continued in existence pursuant to subsection (a) or during a state of disaster emergency authorized pursuant to subsection (b) that are related to the COVID-19 health emergency shall be subject to

revocation by the legislature or the legislative coordinating council pursuant to K.S.A. 48-925, and amendments thereto.

Sec. 6. K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-925. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing ~~herein~~ shall restrict the authority of the governor to do so by *executive* orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation of this act, the governor may issue *executive* orders to exercise the powers conferred by subsection (c) that have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, or as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto. ~~Within 24 hours of the issuance of any such order,~~ The ~~governor~~ *chairperson of the legislative coordinating council* shall call a meeting of the ~~state finance~~ council *to occur within 24 hours of the issuance of an executive order issued pursuant to this section* for the purposes of reviewing such order. Such *executive* orders shall be null and void after the period of a state of disaster emergency has ended. Such *executive* orders may be revoked at any time by concurrent resolution of the legislature *or, when the legislature is not in session or is adjourned during session for three or more days, such orders may be revoked by the legislative coordinating council with the affirmative vote of five members thereof*.

(c) *Except as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto,* during a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, in addition to any other powers conferred upon the governor by law and subject to the provisions of ~~subsection (d), (e) and (f)~~ *subsections (d) and (e)*, the governor may:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and

(11) perform and exercise such other functions, powers and duties in conformity with the constitution and the bill of rights of the state of Kansas and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of subsection (c)(1), as are necessary to promote and secure the safety and protection of the civilian population.

(d) The governor shall not have the power or authority to ~~temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition~~ *limit or otherwise restrict the sale, purchase, transfer, ownership, storage, carrying or transporting of firearms or ammunition, or any component or combination thereof, including any components or combination thereof used in the manufacture of firearms or ammunition, or seize or authorize the seizure of any firearms or ammunition, or any component or combination thereto, except as otherwise permitted by state or federal law* pursuant to subsection (c)(8) or any other executive authority.

(e) ~~Notwithstanding any provision of this section to the contrary and pursuant to the governor's state of disaster emergency proclamation issued on May 26, 2020, the governor shall not have the power or authority to restrict businesses from operating or to restrict the movement or gathering of individuals. The provisions of this subsection shall expire on September 15, 2020.~~

~~(f)~~ The governor shall not have the power under the provisions of the Kansas emergency management act or the provisions of any other law to

alter or modify any provisions of the election laws of the state including, but not limited to, the method by which elections are conducted or the timing of such elections.

~~(g)~~*(f)* The governor shall exercise the powers conferred by subsection (c) by issuance of *executive* orders under subsection (b). Each *executive* order issued pursuant to the authority granted by subsection (b) shall specify the provision or provisions of subsection (c) by specific reference to each paragraph of subsection (c) that confers the power under which the *executive* order was issued. The adjutant general, subject to the direction of the governor, shall administer such *executive* orders.

~~(h)~~*(g) (1) Any party aggrieved by an executive order issued pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such party resides or in the district court of Shawnee county, Kansas, within 30 days after the issuance of such executive order. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such executive order is narrowly tailored to respond to the state of disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.*

(2) Relief under this section shall not include a stay or injunction concerning the contested executive order that applies beyond the county in which the petition was filed.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

(h) (1) The board of county commissioners of any county may issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the governor. Any board of county commissioners issuing such an order must make the following findings and include such findings in the order:

~~(1)~~*(A)* The board has consulted with the local health officer or other local health officials regarding the governor's executive order;

~~(2)~~*(B)* following such consultation, implementation of the full scope of the provisions in the governor's executive order are not necessary to protect the public health and safety of the county; and

~~(3)~~*(C)* all other relevant findings to support the board's decision.

(2) If the board of county commissioners of a county issues an order pursuant to paragraph (1), such order shall operate in the county in lieu of the governor's executive order.

Sec. 7. K.S.A. 2020 Supp. 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-925a. (a) During any state of disaster emergency related to the COVID-19 public health emergency declared pursuant to K.S.A. 48-924, and amendments thereto, the governor may not issue an order that substantially burdens or inhibits the gathering or movement of individuals or operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit.

(b) Any order issued that violates or exceeds the restrictions provided in subsection (a) shall not have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, and any such order shall be null and void.

~~(c) The provisions of this section shall expire on March 31, 2021.~~

Sec. 8. K.S.A. 2020 Supp. 48-932 is hereby amended to read as follows: 48-932. (a) A state of local disaster emergency may be declared by the ~~chairman~~ *chairperson* of the board of county commissioners of any county, or by the mayor or other principal executive officer of each city of this state having a disaster emergency plan, upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within such county or city. No state of local disaster emergency shall be continued for a period in excess of seven days or renewed, except with the consent of the board of county commissioners of such county or the governing body of such city. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed with the county clerk or city clerk. Any such declaration may be reviewed, amended or revoked by the board of county commissioners or the governing body of the city, respectively, at a meeting of such governing body.

(b) In the event of the absence of the ~~chairman~~ *chairperson* of the board of county commissioners from the county or the incapacity of such ~~chairman~~ *chairperson*, the board of county commissioners, by majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). In the event of the absence of the mayor or other principal executive officer of a city from the city or the incapacity of such mayor or officer, the governing body of the city, by majority action of the remaining members thereof, may declare a state of local disaster emergency in the manner provided in and subject to the provisions of subsection (a). Any state of local disaster emergency and any actions taken pursuant to

applicable local and interjurisdictional disaster emergency plans, under this subsection shall continue and have full force and effect as authorized by law unless modified or terminated in the manner prescribed by law.

(c) The declaration of a local disaster emergency shall activate the response and recovery aspects of any and all local and interjurisdictional disaster emergency plans which are applicable to such county or city, and shall initiate the rendering of aid and assistance thereunder.

(d) No interjurisdictional disaster agency or any official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions in the case of a state of local disaster emergency declared under subsection (a).

(e) (1) Any party aggrieved by an action taken by a local unit of government pursuant to this section that has the effect of substantially burdening or inhibiting the gathering or movement of individuals or the operation of any religious, civic, business or commercial activity, whether for-profit or not-for-profit, may file a civil action in the district court of the county in which such action was taken within 30 days after such action is taken. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such action is narrowly tailored to respond to the state of local disaster emergency and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 9. K.S.A. 2020 Supp. 48-939 is hereby amended to read as follows: 48-939. (a) *(1) Except as provided in paragraph (2),* a person who intentionally violates any provision of this act, any rule and regulation adopted by the adjutant general under this act or any lawful order or proclamation issued under authority of this act whether pursuant to a proclamation declaring a state of disaster emergency under K.S.A. 48-924, and amendments thereto, or a declaration of a state of local disaster emergency under K.S.A. 48-932, and amendments thereto, may incur a civil pen-

alty in an amount not to exceed $2,500 per violation. Each penalty may be assessed in addition to any other penalty provided by law.

(2) A knowing violation of an executive order issued pursuant to K.S.A. 48-925, and amendments thereto, that mandates a curfew or prohibits public entry into an area affected by a disaster is a class A nonperson misdemeanor.

(b) Violations of ~~this section~~ *subsection (a)(1)* shall be enforced through an action brought under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, by the attorney general or the county or district attorney in the county in which the violation took place. Civil penalties sued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

(c) The attorney general or any county or district attorney may bring an action to enjoin, or to obtain a restraining order, against a person who has violated, is violating or is otherwise likely to violate this act.

Sec. 10. K.S.A. 2020 Supp. 48-949 is hereby amended to read as follows: 48-949. As used in ~~this~~ *the Kansas intrastate emergency mutual aid* act:

(a) "Division" means the division of emergency management within the office of the adjutant general.

(b) "Emergency responder" means any person in the public or private sector who: (1) Has special skills, qualifications, training, knowledge and experience which would be beneficial to a participating political subdivision in response to a locally-declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and (2) is requested or authorized, or both, to respond. An emergency responder may or may not be required to possess a license, certificate, permit or other official recognition for the emergency responder's expertise in a particular field or area of knowledge. "Emergency responder" ~~may include~~ *includes*, but is not limited to, the following: Law enforcement officers, ~~fire fighters~~ *firefighters, 911 call center public safety telecommunicators*, emergency medical services personnel, physicians, nurses, *physician assistants,* public health personnel, emergency management personnel, public works personnel and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency.

Sec. 11. K.S.A. 65-101 is hereby amended to read as follows: 65-101. (a) The secretary of health and environment shall exercise general supervision of the health of the people of the state and may:

(1) Where authorized by any other statute, require reports from appropriate persons relating to the health of the people of the state so a determination of the causes of sickness and death among the people of the state may be made through the use of these reports and other records;

(2) investigate the causes of disease, including especially, epidemics and endemics, the causes of mortality and effects of locality, employments, conditions, food, water supply, habits and other circumstances affecting the health of the people of this state and the causes of sickness and death;

(3) advise other offices and agencies of government concerning location, drainage, water supply, disposal of excreta and heating and ventilation of public buildings;

(4) make sanitary inspection and survey of such places and localities as the secretary deems advisable;

(5) take action to prevent the introduction of infectious or contagious disease into this state and to prevent the spread of infectious or contagious disease within this state;

(6) provide public health outreach services to the people of the state including educational and other activities designed to increase the individual's awareness and appropriate use of public and other preventive health services.

(b) The secretary of health and environment may adopt rules and regulations necessary to carry out the provisions of ~~paragraphs (1) through (6), inclusive, of~~ subsection (a). In addition to other remedies provided by law, the secretary is authorized to apply to the district court, and such court shall have jurisdiction upon a hearing and for cause shown to grant a temporary or permanent injunction to compel compliance with such rules and regulations.

(c) In the event of a state of disaster emergency declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, or a state of local disaster emergency declared pursuant to K.S.A. 48-932, and amendments thereto, the legislature may revoke an order issued by the secretary to take action related to such disaster emergency as provided in this subsection. Such order may be revoked at any time by concurrent resolution of the legislature or, when the legislature is not in session or is adjourned during session for three or more days, such order may be revoked by the legislative coordinating council with the affirmative vote of five members thereof.

Sec. 12. K.S.A. 2020 Supp. 65-201 is hereby amended to read as follows: 65-201. (a) The board of county commissioners of each county shall act as the county board of health for the county. Each county board shall appoint a person licensed to practice medicine and surgery, preference being given to persons who have training in public health, who shall serve as the local health officer and who shall act in an advisory capacity to the county board of health. The appointing authority of city-county, county or multicounty health units with less than 100,000 population may appoint a qualified local health program administrator as the local health officer if a person licensed to practice medicine and surgery or person licensed to

practice dentistry is designated as a consultant to direct the administrator on program and related medical and professional matters. The local health officer or local health program administrator shall hold office at the pleasure of the board.

(b) *(1) Except as provided in paragraph (2),* any order issued by the local health officer, including orders issued as a result of an executive order of the governor, may be reviewed, amended or revoked by the board of county commissioners of the county affected by such order at a meeting of the board. Any order reviewed or amended by the board shall include an expiration date set by the board and may be amended or revoked at an earlier date by a majority vote of the board.

(2) If a local health officer determines it is necessary to issue an order mandating the wearing of face masks, limiting the size of gatherings of individuals, curtailing the operation of business, controlling the movement of the population of the county or limiting religious gatherings, the local health officer shall propose such an order to the board of county commissioners. At the next regularly scheduled meeting of the board or at a special meeting of the board, the board shall review such proposed order and may take any action related to the proposed order the board determines is necessary. The order shall become effective if approved by the board or, if the board is unable to meet, if approved by the chairperson of the board or the vice chairperson of the board in the chairperson's absence or disability.

(c) The board of county commissioners in any county having a population of less than 15,000 may contract with the governing body of any hospital located in such county for the purpose of authorizing such governing body of the hospital to supply services to a county board of health.

(d) (1) Any party aggrieved by an order issued pursuant to subsection (b)(2) may file a civil action in the district court of the county in which the order was issued within 30 days after such order is issued. Notwithstanding any order issued pursuant to K.S.A. 2020 Supp. 20-172(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such order is narrowly tailored to the purpose stated in the order and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

(2) Relief under this section shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

Sec. 13. K.S.A. 75-3711 is hereby amended to read as follows: 75-3711. (a) The governor shall:

(1) Hear and determine appeals by any state agency from final decisions or final actions of the secretary of administration or the director of computer services.

(2) Approve, modify and approve or reject proposed rules and regulations submitted by the secretary of administration as provided in K.S.A. 75-3706, and amendments thereto.

(3) Make allocations to, and approve expenditures by a state agency, from any appropriations to the governor for that purpose, of funds for unanticipated and unbudgeted needs, under guidelines and limitations prescribed by K.S.A. 75-3711c, and amendments thereto, or other legislative enactment enhancing or altering K.S.A. 75-3711c, and amendments thereto.

(4) Exercise powers and perform functions specified for the state finance council or governor by the Kansas civil service act.

(b) (1) The chairperson and five or more other members of the state finance council shall constitute a quorum. Approval by the governor and approval by a majority vote of the legislative members of the state finance council shall govern, unless a unanimous vote is required by statute in any particular case.

(2) Whenever a matter is to be acted on by the state finance council and a unanimous vote is required to approve the particular matter by K.S.A. ~~48-924,~~ 75-3713, 75-3713b or 75-3713c, and amendments thereto, or by any other statute, each member who is unable to attend the meeting at which the matter was voted on, may vote on the motion by written absentee vote in the manner prescribed by this subsection. In any such case, an absent member may vote on the motion by ~~(A)~~ writing the member's signature on a copy of the resolution setting forth the matter that is the subject of the motion, writing the date and indicating the member's vote for or against adoption of the resolution~~,~~ and ~~(B)~~ submitting the copy of the resolution bearing the absentee vote to the secretary of the state finance council either before or not more than 10 days after the date of the meeting at which the motion was voted on. The secretary of the state finance council shall maintain each copy of a resolution bearing an absentee vote as part of the minutes and records of the meeting at which the motion on the resolution was voted on. The secretary shall indicate in the minutes of the meeting the name of each member voting in writing by absentee vote and the date on which the absentee vote was submitted to

the secretary. If a particular matter requiring a unanimous vote receives the affirmative vote of each member of the state finance council attending the meeting and the affirmative absentee vote pursuant to this subsection of each member not attending the meeting, then the matter shall be deemed to have received the unanimous vote of all members of the state finance council.

(c) Whenever statutes provide for any matter to receive state finance council action, ~~the same~~ *such matter* shall be made a matter of business before ~~said~~ *such* council, if and only if the matter is characterized as a legislative delegation, and in other such cases the governor shall exercise the function specified for the state finance council by applying the guidelines and limitations of K.S.A. 75-3711c, and amendments thereto, or other legislative enactment enhancing or altering ~~the same~~ *such function*.

New Sec. 14. The provisions of this act are severable. If any portion of the act is declared unconstitutional or invalid, or the application of any portion of the act to any person or circumstance is held unconstitutional or invalid, the invalidity shall not affect other portions of the act that can be given effect without the invalid portion or application, and the applicability of such other portions of the act to any person or circumstance shall remain valid and enforceable.

Sec. 15. K.S.A. 46-1201, 65-101 and 75-3711 and K.S.A. 2019 Supp. 48-925, as amended by section 4 of 2021 Senate Bill No. 14, and 48-925, as amended by section 5 of 2021 Senate Bill No. 14, and K.S.A. 2020 Supp. 48-924, as amended by section 2 of 2021 Senate Bill No. 14, 48-924b, as amended by section 3 of 2021 Senate Bill No. 14, 48-925a, as amended by section 6 of 2021 Senate Bill No. 14, 48-925b, 48-932, 48-939, 48-949 and 65-201 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 24, 2021.

Published in the *Kansas Register* March 25, 2021.

CHAPTER 8

HOUSE BILL No. 2227

AN ACT concerning courts; relating to orders issued by the chief justice to secure health and safety during a disaster emergency; suspension of deadlines or time limitations; authorizing suspension during a state of local disaster emergency; suspension of verification requirements under the revised Kansas code for the care of children; use of electronic audio-visual communication to expeditiously resolve pending cases; amending K.S.A. 2020 Supp. 20-172 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 20-172 is hereby amended to read as follows: 20-172. (a) Notwithstanding any other provisions of law, during any state of disaster emergency pursuant to K.S.A. 48-924, and amendments thereto, *or any state of local disaster emergency established by K.S.A. 48-932, and amendments thereto,* the chief justice of the Kansas supreme court may issue an order to extend or suspend any deadlines or time limitations established by statute *or suspend the verification required pursuant to K.S.A. 2020 Supp. 38-2273, and amendments thereto,* when the chief justice determines such action is necessary to secure the health and safety of court users, staff and judicial officers.

(b) Notwithstanding any other provisions of law, the chief justice of the Kansas supreme court may issue an order to authorize the use of two-way electronic audio-visual communication in any court proceeding when the chief justice determines such action is necessary to*:*

(1) Secure the health and safety of court users, staff and judicial officers*; or*

(2) expeditiously resolve pending cases.

(c) Any order issued pursuant to subsection (a) may remain in effect for up to 150 days after ~~a~~ *the applicable* state of disaster emergency is terminated pursuant to K.S.A. 48-924, and amendments thereto*, or state of local disaster emergency is terminated pursuant to K.S.A. 48-932, and amendments thereto*. Any order in violation of this section shall be void.

(d) *(1) For a deadline or time limitation that was extended or suspended because of an order issued pursuant to subsection (a), on the date such order terminates, a person shall have the same number of days to comply with the deadline or time limitation as the person had when the deadline or time limitation was extended or suspended; and*

(2) for a deadline or time limitation that did not begin to run because of an order issued pursuant to subsection (a), on the date such order terminates, a person shall have the full period provided by law to comply with the deadline or time limitation.

(e) The provisions of ~~this section~~ *subsections (a) and (c)* shall expire on ~~March 31, 2021~~ *June 30, 2022*.

Sec. 2. K.S.A. 2020 Supp. 20-172 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 26, 2021.

Published in the *Kansas Register* March 30, 2021.

CHAPTER 9

SENATE BILL No. 13
(Amended by Chapter 58)

AN ACT concerning property taxation; relating to tax levy rates, establishing notice and public hearing requirements prior to approval by a governing body to exceed its revenue neutral rate and discontinuing the city and county tax lid; prohibiting valuation increase of real property solely as the result of normal repair, replacement or maintenance; establishment of a payment plan for the payment of delinquent or nondelinquent taxes; requiring the director of accounts and reports to include revenue neutral rate on regular budget form; eliminating certain requirements for budget approval for select taxing subdivisions; providing for payment of county printing and postage notification costs; establishing the taxpayer notification costs fund; amending K.S.A. 79-1460, 79-1801, 79-2024, 79-2925c and 79-2929 and repealing the existing sections; also repealing K.S.A. 79-2925b.

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

New Section 1. (a) On or before June 15 each year, the county clerk shall calculate the revenue neutral rate for each taxing subdivision and include such revenue neutral rate on the notice of the estimated assessed valuation provided to each taxing subdivision for budget purposes. The director of accounts and reports shall modify the prescribed budget information form to show the revenue neutral rate.

(b) No tax rate in excess of the revenue neutral rate shall be levied by the governing body of any taxing subdivision unless a resolution or ordinance has been approved by the governing body according to the following procedure:

(1) At least 10 days in advance of the public hearing, the governing body shall publish notice of its proposed intent to exceed the revenue neutral rate by publishing notice: (A) On the website of the governing body, if the governing body maintains a website; and

(B) in a weekly or daily newspaper of the county having a general circulation therein. The notice shall include, but not be limited to, its proposed tax rate, its revenue neutral rate and the date, time and location of the public hearing.

(2) On or before July 15, the governing body shall notify the county clerk of its proposed intent to exceed the revenue neutral rate and provide the date, time and location of the public hearing and its proposed tax rate. For all tax years commencing after December 31, 2021, the county clerk shall notify each taxpayer with property in the taxing subdivision, by mail directed to the taxpayer's last known address, of the proposed intent to exceed the revenue neutral rate at least 10 days in advance of the public hearing. Alternatively, the county clerk may transmit the notice to the taxpayer by electronic means at least 10 days in advance of the public hearing, if such taxpayer and county clerk have consented in writing to service by electronic means. The county clerk

shall consolidate the required information for all taxing subdivisions relevant to the taxpayer's property on one notice. The notice shall be in a format prescribed by the director of accounts and reports. The notice shall include, but not be limited to:

(A) The revenue neutral rate of each taxing subdivision relevant to the taxpayer's property;

(B) the proposed property tax revenue needed to fund the proposed budget of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate;

(C) the proposed tax rate based upon the proposed budget and the current year's total assessed valuation of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate;

(D) the tax rate and property tax of each taxing subdivision on the taxpayer's property from the previous year's tax statement;

(E) the appraised value and assessed value of the taxpayer's property for the current year;

(F) the estimates of the tax for the current tax year on the taxpayer's property based on the revenue neutral rate of each taxing subdivision and any proposed tax rates that exceed the revenue neutral rates;

(G) the difference between the estimates of tax based on the proposed tax rate and the revenue neutral rate on the taxpayer's property described in subparagraph (F) for any taxing subdivision that has a proposed tax rate that exceeds its revenue neutral rate; and

(H) the date, time and location of the public hearing of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate.

Although the state of Kansas is not a taxing subdivision for purposes of this section, the notice shall include a statement of the statutory mill levies imposed by the state and the estimate of the tax for the current year on the taxpayer's property based on such levies.

(3) The public hearing to consider exceeding the revenue neutral rate shall be held not sooner than August 10 and not later than September 10. The governing body shall provide interested taxpayers desiring to be heard an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. The public hearing may be conducted in conjunction with the proposed budget hearing pursuant to K.S.A. 79-2929, and amendments thereto, if the governing body otherwise complies with all requirements of this section. Nothing in this section shall be construed to prohibit additional public hearings that provide additional opportunities to present testimony or public comment prior to the public hearing required by this section.

(4) A majority vote of the governing body, by the adoption of a resolution or ordinance to approve exceeding the revenue neutral rate, shall be required prior to adoption of a proposed budget that will result in a tax rate in excess of the revenue neutral rate. Such vote of the governing body shall be conducted at the public hearing after the governing body has heard from interested taxpayers. If the governing body approves exceeding the revenue neutral rate, the governing body shall not adopt a budget that results in a tax rate in excess of its proposed tax rate as stated in the notice provided pursuant to this section.

(c) Any governing body subject to the provisions of this section that does not comply with subsection (b) shall refund to taxpayers any property taxes over-collected based on the amount of the levy that was in excess of the revenue neutral rate. The provisions of this subsection shall not be construed as prohibiting any other remedies available under the law.

(d) If the governing body of a taxing subdivision must conduct a public hearing to approve exceeding the revenue neutral rate under this section, the governing body of the taxing subdivision shall certify, on or before September 20, to the proper county clerk the amount of ad valorem tax to be levied.

(e) As used in this section:

(1) "Taxing subdivision" means any political subdivision of the state that levies an ad valorem tax on property.

(2) "Revenue neutral rate" means the tax rate for the current tax year that would generate the same property tax revenue as levied the previous tax year using the current tax year's total assessed valuation. To calculate the revenue neutral rate, the county clerk shall divide the property tax revenue for such taxing subdivision levied for the previous tax year by the total of all taxable assessed valuation in such taxing subdivision for the current tax year, and then multiply the quotient by 1,000 to express the rate in mills. The revenue neutral rate shall be expressed to the third decimal place.

(f) In the event that a county clerk incurred costs of printing and postage that were not reimbursed pursuant to section 7, and amendments thereto, such county clerk may seek reimbursement from all taxing subdivisions required to send the notice. Such costs shall be shared proportionately by all taxing subdivisions that were included on the same notice based on the total property tax levied by each taxing subdivision. Payment of such costs shall be due to the county clerk by December 31.

(g) The provisions of this section shall take effect and be in force from and after January 1, 2021.

Sec. 2. On and after July 1, 2021, K.S.A. 79-1460 is hereby amended to read as follows: 79-1460. (a) The county appraiser shall notify each taxpayer in the county annually on or before March 1 for real property

and May 1 for personal property, by mail directed to the taxpayer's last known address, of the classification and appraised valuation of the taxpayer's property, except that, the valuation for all real property shall not be increased unless the record of the latest physical inspection was reviewed by the county or district appraiser, and documentation exists to support such increase in valuation in compliance with the directives and specifications of the director of property valuation, and such record and documentation is available to the affected taxpayer. *The valuation for all real property also shall not be increased solely as the result of normal repair, replacement or maintenance of existing structures, equipment or improvements on the property. For purposes of this section, "normal repair, replacement or maintenance" does not include new construction as defined in this section.* For the next two taxable years following the taxable year that the valuation for commercial real property has been reduced due to a final determination made pursuant to the valuation appeals process, the county appraiser shall review the computer-assisted mass-appraisal of the property and if the valuation in either of those two years exceeds the value of the previous year by more than 5%, excluding new construction, change in use or change in classification, the county appraiser shall either: (1) Adjust the valuation of the property based on the information provided in the previous appeal; or (2) order an independent fee simple appraisal of the property to be performed by a Kansas certified real property appraiser. As used in this section, "new construction" means the construction of any new structure or improvements or the remodeling or renovation of any existing structures or improvements on real property. When the valuation for real property has been reduced due to a final determination made pursuant to the valuation appeals process for the prior year, and the county appraiser has already certified the appraisal rolls for the current year to the county clerk pursuant to K.S.A. 79-1466, and amendments thereto, the county appraiser may amend the appraisal rolls and certify the changes to the county clerk to implement the provisions of this subsection and reduce the valuation of the real property to the prior year's final determination, except that such changes shall not be made after October 31 of the current year. For the purposes of this section and in the case of real property, the term "taxpayer" shall be deemed to be the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk and, in the case where the real property or improvement thereon is the subject of a lease agreement, such term shall also be deemed to include the lessee of such property if the lease agreement has been recorded or filed in the office of the register of deeds. Such notice shall specify separately both the previous and current appraised and assessed values for each property class identified on the parcel. Such notice shall also contain the uniform parcel identi-

fication number prescribed by the director of property valuation. Such notice shall also contain a statement of the taxpayer's right to appeal, the procedure to be followed in making such appeal and the availability without charge of the guide devised pursuant to subsection (b). Such notice may, and if the board of county commissioners so require, shall provide the parcel identification number, address and the sale date and amount of any or all sales utilized in the determination of appraised value of residential real property. In any year in which no change in appraised valuation of any real property from its appraised valuation in the next preceding year is determined, an alternative form of notification which has been approved by the director of property valuation may be utilized by a county. Failure to timely mail or receive such notice shall in no way invalidate the classification or appraised valuation as changed. The secretary of revenue shall adopt rules and regulations necessary to implement the provisions of this section.

(b) For all taxable years commencing after December 31, 1999, there shall be provided to each taxpayer, upon request, a guide to the property tax appeals process. The director of the division of property valuation shall devise and publish such guide, and shall provide sufficient copies thereof to all county appraisers. Such guide shall include but not be limited to: (1) A restatement of the law which pertains to the process and practice of property appraisal methodology, including the contents of K.S.A. 79-503a and 79-1460, and amendments thereto; (2) the procedures of the appeals process, including the order and burden of proof of each party and time frames required by law; and (3) such other information deemed necessary to educate and enable a taxpayer to properly and competently pursue an appraisal appeal.

Sec. 3. K.S.A. 79-1801 is hereby amended to read as follows: 79-1801. (a) Except as provided by subsection (b), each year the governing body of any city, the trustees of any township, the board of education of any school district and the governing bodies of all other taxing subdivisions shall certify, on or before August 25, to the proper county clerk the amount of ad valorem tax to be levied. Thereupon, the county clerk shall place the tax upon the tax roll of the county, in the manner prescribed by law, and the tax shall be collected by the county treasurer. The county treasurer shall distribute the proceeds of the taxes levied by each taxing subdivision in the manner provided by K.S.A. 12-1678a, and amendments thereto.

(b) *Prior to January 1, 2021,* if the governing body of a city or county must conduct an election for an increase in property tax to fund any appropriation or budget under K.S.A. 2020 Supp. 25-433a, and amendments thereto, the governing body of the city or county shall certify, on or before October 1, to the proper county clerk the amount of ad valorem tax to be levied. *On and after January 1, 2021, if the governing body of a tax-*

ing subdivision must conduct a public hearing to approve exceeding the revenue neutral rate under section 1, and amendments thereto, the governing body of the taxing subdivision shall certify, on or before September 20, to the proper county clerk the amount of ad valorem tax to be levied.

Sec. 4. K.S.A. 79-2024 is hereby amended to read as follows: 79-2024. Notwithstanding any other provision of law to the contrary, the county treasurer of every county may accept partial payment ~~of~~ *or establish a payment plan for* delinquent *or nondelinquent* real property tax or personal property tax in accordance with payment guidelines established therefor by the county treasurer. Nothing in this section shall be construed to modify any consequences of untimely payment.

Sec. 5. K.S.A. 79-2925c is hereby amended to read as follows: 79-2925c. (a) (1) On and after January 1, 2017, *and prior to January 1, 2021,* the governing body of any city or county shall not approve any appropriation or budget which provides for funding by property tax revenues in an amount exceeding that of the next preceding year as adjusted to reflect the average changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding five calendar years, which shall not be less than zero, unless the city or county approves the appropriation or budget with the adoption of a resolution and such resolution has been submitted to and approved by a majority of the qualified electors of the city or county voting at an election called and held thereon, except as otherwise provided.

(2) The election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto, and may be:

(A) Held at the next regularly scheduled election to be held in August or November;

(B) may be a mail ballot election, conducted in accordance with K.S.A. 25-431 et seq., and amendments thereto; or

(C) may be a special election called by the city or county. Nothing in this subsection shall prevent any city or county from holding more than one election in any year. The city or county requesting the election shall be responsible for paying all costs associated with conducting the election.

(b) A resolution by the governing body of a city or county otherwise required by the provisions of this section shall not be required to be approved by an election required by subsection (a) under the following circumstances:

(1) Increased property tax revenues that, in the current year, are produced and attributable to the taxation of:

(A) The construction of any new structures or improvements or the remodeling or renovation of any existing structures or improvements on real property, which shall not include any ordinary maintenance or repair of any existing structures or improvements on the property;

(B) increased personal property valuation;

(C) real property located within added jurisdictional territory;

(D) real property which has changed in use;

(E) expiration of any abatement of property from property tax; or

(F) expiration of a tax increment financing district, rural housing incentive district, neighborhood revitalization area or any other similar property tax rebate or redirection program.

(2) Increased property tax revenues that will be spent on:

(A) Bond, temporary notes, no fund warrants, state infrastructure loans and interest payments not exceeding the amount of ad valorem property taxes levied in support of such payments, and payments made to a public building commission and lease payments but only to the extent such payments were obligations that existed prior to July 1, 2016;

(B) payment of special assessments not exceeding the amount of ad valorem property taxes levied in support of such payments;

(C) court judgments or settlements of legal actions against the city or county and legal costs directly related to such judgments or settlements;

(D) expenditures of city or county funds that are specifically mandated by federal or state law with such mandates becoming effective on or after July 1, 2015, and loss of funds from federal sources after January 1, 2017, where the city or county is contractually obligated to provide a service;

(E) expenses relating to a federal, state or local disaster or federal, state or local emergency, including, but not limited to, a financial emergency, declared by a federal or state official. The board of county commissioners may request the governor to declare such disaster or emergency; or

(F) increased costs above the consumer price index for law enforcement, fire protection or emergency medical services.

(3) Any increased property tax revenues generated for law enforcement, fire protection or emergency medical services shall be expended exclusively for these purposes but shall not be used for the construction or remodeling of buildings.

(4) The property tax revenues levied by the city or county have declined:

(A) In one or more of the next preceding three calendar years and the increase in the amount of funding for the budget or appropriation from revenue produced from property taxes does not exceed the average amount of funding from such revenue of the next preceding three calendar years, adjusted to reflect changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding calendar year; or

(B) the increase in the amount of ad valorem tax to be levied is less than the change in the consumer price index plus the loss of assessed

property valuation that has occurred as the result of legislative action, judicial action or a ruling by the board of tax appeals.

(5) Whenever a city or county is required by law to levy taxes for the financing of the budget of any political or governmental subdivision of this state that is not authorized by law to levy taxes on its own behalf, and the governing body of such city or county is not authorized or empowered to modify or reduce the amount of taxes levied therefore, the tax levies of the political or governmental subdivision shall not be included in or considered in computing the aggregate limitation upon the property tax levies of the city or county.

(6) Any tax levy increase as a result of another taxing entity being dissolved and all powers, responsibilities, duties and liabilities of the taxing entity have been transferred to a city located in the county in which the taxing entity is located, or to the county in which the taxing entity is located, to carry on the function and responsibilities of the dissolved taxing entity, so long as the levy increase does not exceed the levy of the dissolved taxing entity.

Sec. 6. K.S.A. 79-2929 is hereby amended to read as follows: 79-2929. Prior to the filing of the adopted budget with the county clerk, the governing body of each taxing or political subdivision or municipality shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The governing body shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper of the county having a general circulation therein. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director of accounts and reports and furnished with the regular budget form. *Such form shall also include the revenue neutral rate as provided in section 1, and amendments thereto.* The notice of a governing body of any taxing subdivision or municipality having an annual expenditure of $500 or less shall specify the time and place of the meeting required by this section but shall not be required to include the proposed budget of such taxing subdivision or municipality.

New Sec. 7. (a) For calendar years 2022 and 2023, if a county clerk has printing or postage costs pursuant to section 1, and amendments thereto, the county clerk shall notify and provide documentation of such costs to the secretary of revenue. The secretary of revenue shall certify the amount of moneys attributable to such costs and shall transmit a copy of such certification to the director of accounts and reports. Upon such receipt of such certification, the director of accounts and reports shall transfer an amount of moneys equal to such certified amount from the

state general fund to the taxpayer notification costs fund of the department of revenue. The secretary of revenue shall transmit a copy of each such certification to the director of legislative research and the director of the budget.

(b) There is hereby established in the state treasury the taxpayer notification costs fund that shall be administered by the secretary of revenue. All expenditures from the taxpayer notification costs fund shall be for the purpose of paying county printing and postage costs pursuant to section 1, and amendments thereto. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of revenue or the secretary's designee.

Sec. 8. K.S.A. 79-1801, 79-2024, 79-2925b, 79-2925c and 79-2929 are hereby repealed.

Sec. 9. On and after July 1, 2021, K.S.A. 79-1460 is hereby repealed.

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

Approved March 26, 2021.

Published in the *Kansas Register* April 1, 2021.

CHAPTER 10

SENATE BILL No. 21

AN ACT concerning sales and compensating use tax; relating to countywide retailers' sales tax; approving election by Cherokee county; amending K.S.A. 2020 Supp. 12-187, 12-189 and 12-192 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 12-187 is hereby amended to read as follows: 12-187. (a) No city shall impose a retailers' sales tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a retailers' sales tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(b) (1) The board of county commissioners of any county may submit the question of imposing a countywide retailers' sales tax to the electors at an election called and held thereon, and any such board shall be required to submit the question upon submission of a petition signed by electors of such county equal in number to not less than 10% of the electors of such county who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $^2/_3$ of the membership of the governing body of each of one or more cities within such county that contains a population of not less than 25% of the entire population of the county, or upon receiving resolutions requesting such an election passed by $^2/_3$ of the membership of the governing body of each of one or more taxing subdivisions within such county that levy not less than 25% of the property taxes levied by all taxing subdivisions within the county.

(2) The board of county commissioners of Anderson, Atchison, Barton, Brown, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Franklin, Jefferson, Linn, Lyon, Marion, Miami, Montgomery, Neosho, Osage, Ottawa, Reno, Riley, Saline, Seward, Sumner, Thomas, Wabaunsee, Wilson and Wyandotte counties may submit the question of imposing a countywide retailers' sales tax and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement center facility or other county administrative facility, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire when sales tax sufficient to pay all of the costs incurred in the financing of such facility has been collected by retailers as determined by the secretary of revenue. Nothing in this para-

graph shall be construed to allow the rate of tax imposed by Butler, Chase, Cowley, Lyon, Montgomery, Neosho, Riley, Sumner or Wilson county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(3) (A) Except as otherwise provided in this paragraph, the result of the election held on November 8, 1988, on the question submitted by the board of county commissioners of Jackson county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the Banner Creek reservoir project. The tax imposed pursuant to this paragraph shall take effect on the effective date of this act and shall expire not later than five years after such date.

(B) The result of the election held on November 8, 1994, on the question submitted by the board of county commissioners of Ottawa county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the erection, construction and furnishing of a law enforcement center and jail facility.

(C) Except as otherwise provided in this paragraph, the result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Sedgwick county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be used only to pay the costs of: (i) Acquisition of a site and constructing and equipping thereon a new regional events center, associated parking and infrastructure improvements and related appurtenances thereto, to be located in the downtown area of the city of Wichita, Kansas, (the "downtown arena"); (ii) design for the Kansas coliseum complex and construction of improvements to the pavilions; and (iii) establishing an operating and maintenance reserve for the downtown arena and the Kansas coliseum complex. The tax imposed pursuant to this paragraph shall commence on July 1, 2005, and shall terminate not later than 30 months after the commencement thereof.

(D) Except as otherwise provided in this paragraph, the result of the election held on August 5, 2008, on the question submitted by the board of county commissioners of Lyon county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received therefrom by the county shall be expended for the purposes of ad valorem tax reduction and capital outlay. The tax imposed pursuant to this paragraph shall terminate not later than five years after the commencement thereof.

(E) Except as otherwise provided in this paragraph, the result of the election held on August 5, 2008, on the question submitted by the board

of county commissioners of Rawlins county for the purpose of increasing its countywide retailers' sales tax by 0.75% is hereby declared valid, and the revenue received therefrom by the county shall be expended for the purposes of financing the costs of a swimming pool. The tax imposed pursuant to this paragraph shall terminate not later than 15 years after the commencement thereof or upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(F) The result of the election held on December 1, 2009, on the question submitted by the board of county commissioners of Chautauqua county for the purpose of increasing its countywide retailers' sales tax by 1% is hereby declared valid, and the revenue received from such tax by the county shall be expended for the purposes of financing the costs of constructing, furnishing and equipping a county jail and law enforcement center and necessary improvements appurtenant to such jail and law enforcement center. Any tax imposed pursuant to authority granted in this paragraph shall terminate upon payment of all costs authorized pursuant to this paragraph incurred in the financing of the project described in this paragraph.

(G) The result of the election held on April 7, 2015, on the question submitted by the board of county commissioners of Bourbon county for the purpose of increasing its retailers' sales tax by 0.4% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing the costs of constructing, furnishing and operating a courthouse, law enforcement center or jail facility improvements. Any tax imposed pursuant to authority granted in this paragraph shall terminate upon payment of all costs authorized pursuant to this paragraph incurred in the financing of the project described in this paragraph.

(H) The result of the election held on November 7, 2017, on the question submitted by the board of county commissioners of Finney county for the purpose of increasing its countywide retailers' sales tax by 0.3% is hereby declared valid, and the revenues of such tax shall be used by Finney county and the city of Garden City, Kansas, as agreed in an interlocal cooperation agreement between the city and county, and as detailed in the ballot question approved by voters. The tax imposed pursuant to this subparagraph shall be levied for a period of 15 years from the date it is first levied.

(I) The result of the election held on November 3, 2020, on the question submitted by the board of county commissioners of Cherokee county for the purpose of increasing its retailers' sales tax by 0.5% is hereby declared valid, and the revenue received therefrom by the county shall be expended solely for the purpose of financing: (i) Ambulance services within the county; (ii) renovations and maintenance of county buildings and

facilities; or (iii) any other projects within the county deemed necessary by the governing body of Cherokee county. The tax imposed pursuant to this subparagraph shall terminate prior to January 1, 2033.

(4) The board of county commissioners of Finney and Ford counties may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purpose of financing all or any portion of the cost to be paid by Finney or Ford county for construction of highway projects identified as system enhancements under the provisions of K.S.A. 68-2314(b)(5), and amendments thereto, to the electors at an election called and held thereon. Such election shall be called and held in the manner provided by the general bond law. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Finney or Ford county pursuant to this paragraph to exceed the maximum rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Finney county, the state treasurer shall remit such funds to the treasurer of Finney county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund. If any funds remain upon the payment of all costs authorized pursuant to this paragraph in the financing of such highway projects in Ford county, the state treasurer shall remit such funds to the treasurer of Ford county and upon receipt of such moneys shall be deposited to the credit of the county road and bridge fund.

(5) The board of county commissioners of any county may submit the question of imposing a retailers' sales tax at the rate of 0.25%, 0.5%, 0.75% or 1% and pledging the revenue received therefrom for the purpose of financing the provision of health care services, as enumerated in the question, to the electors at an election called and held thereon. Whenever any county imposes a tax pursuant to this paragraph, any tax imposed pursuant to subsection (a)(2) by any city located in such county shall expire upon the effective date of the imposition of the countywide tax, and thereafter the state treasurer shall remit to each such city that portion of the countywide tax revenue collected by retailers within such city as certified by the director of taxation. The tax imposed pursuant to this paragraph shall be deemed to be in addition to the rate limitations prescribed in K.S.A. 12-189, and amendments thereto. As used in this paragraph, health care services shall include, but not be limited to, the following: Local health departments, city or county hospitals, city or county nursing homes, preventive health care services including immunizations, prenatal care and the postponement of entry into nursing homes by home care

services, mental health services, indigent health care, physician or health care worker recruitment, health education, emergency medical services, rural health clinics, integration of health care services, home health services and rural health networks.

(6) The board of county commissioners of Allen county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% and pledging the revenue received therefrom for the purpose of financing the costs of operation and construction of a solid waste disposal area or the modification of an existing landfill to comply with federal regulations to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs incurred in the financing of the project undertaken. Nothing in this paragraph shall be construed to allow the rate of tax imposed by Allen county pursuant to this paragraph to exceed or be imposed at any rate other than the rates prescribed in K.S.A. 12-189, and amendments thereto.

(7) (A) The board of county commissioners of Clay and Miami county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.50% in the case of Clay county and at a rate of up to 1% in the case of Miami county, and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. Except as otherwise provided, the tax imposed pursuant to this subparagraph shall expire after five years from the date such tax is first collected. The result of the election held on November 2, 2004, on the question submitted by the board of county commissioners of Miami county for the purpose of extending for an additional five-year period the countywide retailers' sales tax imposed pursuant to this subsection in Miami county is hereby declared valid. The countywide retailers' sales tax imposed pursuant to this subsection in Clay and Miami county may be extended or reenacted for additional five-year periods upon the board of county commissioners of Clay and Miami county submitting such question to the electors at an election called and held thereon for each additional five-year period as provided by law.

(B) The board of county commissioners of Dickinson county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this subparagraph shall expire after 10 years from the date such tax is first collected.

(8) The board of county commissioners of Sherman county may submit the question of imposing a countywide retailers' sales tax at the rate of 1% and pledging the revenue received therefrom for the purpose of

financing the costs of street and roadway improvements to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(9) (A) The board of county commissioners of Cowley, Crawford and Woodson county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% in the case of Crawford and Woodson county and at a rate of up to 0.25%, in the case of Cowley county and pledging the revenue received therefrom for the purpose of financing economic development initiatives or public infrastructure projects. The tax imposed pursuant to this subparagraph shall expire after five years from the date such tax is first collected.

(B) The board of county commissioners of Russell county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% and pledging the revenue received therefrom for the purpose of financing economic development initiatives or public infrastructure projects. The tax imposed pursuant to this subparagraph shall expire after 10 years from the date such tax is first collected.

(10) The board of county commissioners of Franklin county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purpose of financing recreational facilities. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.

(11) The board of county commissioners of Douglas county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purposes of conservation, access and management of open space; preservation of cultural heritage; and economic development projects and activities.

(12) The board of county commissioners of Shawnee county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom to the city of Topeka for the purpose of financing the costs of rebuilding the Topeka boulevard bridge and other public infrastructure improvements associated with such project to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project.

(13) The board of county commissioners of Jackson county may submit the question of imposing a countywide retailers' sales tax at a rate of 0.4% and pledging the revenue received therefrom for the purpose of financing public infrastructure projects to the electors at an election called and held thereon. Such tax shall expire after seven years from the date such tax is first collected.

(14) The board of county commissioners of Neosho county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project.

(15) The board of county commissioners of Saline county may submit the question of imposing a countywide retailers' sales tax at the rate of up to 0.5% and pledging the revenue received therefrom for the purpose of financing the costs of construction and operation of an expo center to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.

(16) The board of county commissioners of Harvey county may submit the question of imposing a countywide retailers' sales tax at the rate of 1.0% and pledging the revenue received therefrom for the purpose of financing the costs of property tax relief, economic development initiatives and public infrastructure improvements to the electors at an election called and held thereon.

(17) The board of county commissioners of Atchison county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purpose of financing the costs of construction and maintenance of sports and recreational facilities to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such facilities.

(18) The board of county commissioners of Wabaunsee county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% and pledging the revenue received therefrom for the purpose of financing the costs of bridge and roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after 15 years from the date such tax is first collected. On and after July 1, 2019, the countywide retailers' sales tax imposed pursuant to this paragraph may be extended or reenacted for one additional period not to exceed 15 years upon the board of county commissioners of Wabaunsee county submitting such question to the electors at an election called and held thereon as provided by law. For any countywide retailers' sales tax that is extended or reenacted pursuant to this paragraph, such tax shall expire not later than 15 years from the date such tax is first collected.

(19) The board of county commissioners of Jefferson county may submit the question of imposing a countywide retailers' sales tax at the

rate of 1% and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after six years from the date such tax is first collected. The countywide retailers' sales tax imposed pursuant to this paragraph may be extended or reenacted for additional six-year periods upon the board of county commissioners of Jefferson county submitting such question to the electors at an election called and held thereon for each additional six-year period as provided by law.

(20) The board of county commissioners of Riley county may submit the question of imposing a countywide retailers' sales tax at the rate of up to 1% and pledging the revenue received therefrom for the purpose of financing the costs of bridge and roadway construction and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after five years from the date such tax is first collected.

(21) The board of county commissioners of Johnson county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purpose of financing the construction and operation costs of public safety projects, including, but not limited to, a jail, detention center, sheriff's resource center, crime lab or other county administrative or operational facility dedicated to public safety, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after 10 years from the date such tax is first collected. The countywide retailers' sales tax imposed pursuant to this subsection may be extended or reenacted for additional periods not exceeding 10 years upon the board of county commissioners of Johnson county submitting such question to the electors at an election called and held thereon for each additional ten-year period as provided by law.

(22) The board of county commissioners of Wilson county may submit the question of imposing a countywide retailers' sales tax at the rate of up to 1% and pledging the revenue received therefrom for the purpose of financing the costs of roadway construction and improvements to federal highways, the development of a new industrial park and other public infrastructure improvements to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized pursuant to this paragraph in the financing of such project or projects.

(23) The board of county commissioners of Butler county may submit the question of imposing a countywide retailers' sales tax at the rate of either 0.25%, 0.5%, 0.75% or 1% and pledging the revenue received therefrom for the purpose of financing the costs of public safety capital

projects or bridge and roadway construction projects, or both, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such projects.

(24) The board of county commissioners of Barton county may submit the question of imposing a countywide retailers' sales tax at the rate of up to 0.5% and pledging the revenue received therefrom for the purpose of financing the costs of roadway and bridge construction and improvement and infrastructure development and improvement to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after 10 years from the date such tax is first collected.

(25) The board of county commissioners of Jefferson county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purpose of financing the costs of the county's obligation as participating employer to make employer contributions and other required contributions to the Kansas public employees retirement system for eligible employees of the county who are members of the Kansas police and firemen's retirement system, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such purpose.

(26) The board of county commissioners of Pottawatomie county may submit the question of imposing a countywide retailers' sales tax at the rate of up to 0.5% and pledging the revenue received therefrom for the purpose of financing the costs of construction or remodeling of a courthouse, jail, law enforcement center facility or other county administrative facility, or public infrastructure improvements, or both, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon payment of all costs authorized in financing such project or projects.

(27) The board of county commissioners of Kingman county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25%, 0.5%, 0.75% or 1% and pledging the revenue received therefrom for the purpose of financing the costs of constructing and furnishing a law enforcement center and jail facility and the costs of roadway and bridge improvements to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire not later than 20 years from the date such tax is first collected.

(28) The board of county commissioners of Edwards county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.375% and pledging the revenue therefrom for the purpose of financing the costs of economic development initiatives to the electors at an election called and held thereon.

(29) The board of county commissioners of Rooks county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% and pledging the revenue therefrom for the purpose of financing the costs of constructing or remodeling and furnishing a jail facility to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire upon the payment of all costs authorized in financing such project or projects.

(30) The board of county commissioners of Douglas county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% and pledging the revenue received therefrom for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement center facility, detention facility or other county administrative facility, specifically including mental health and for the operation thereof.

(31) The board of county commissioners of Bourbon county may submit the question of imposing a countywide retailers' sales tax at the rate of up to 1%, in increments of 0.05%, and pledging the revenue received therefrom for the purpose of financing the costs of constructing, furnishing and operating a courthouse, law enforcement center or jail facility improvements to the electors at an election called and held thereon.

(32) The board of county commissioners of Marion county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.5% and pledging the revenue received therefrom for the purpose of financing the costs of property tax relief, economic development initiatives and the construction of public infrastructure improvements, including buildings, to the electors at an election called and held thereon.

(c) The boards of county commissioners of any two or more contiguous counties, upon adoption of a joint resolution by such boards, may submit the question of imposing a retailers' sales tax within such counties to the electors of such counties at an election called and held thereon and such boards of any two or more contiguous counties shall be required to submit such question upon submission of a petition in each of such counties, signed by a number of electors of each of such counties where submitted equal in number to not less than 10% of the electors of each of such counties who voted at the last preceding general election for the office of secretary of state, or upon receiving resolutions requesting such an election passed by not less than $^2/_3$ of the membership of the governing body of each of one or more cities within each of such counties that contains a population of not less than 25% of the entire population of each of such counties, or upon receiving resolutions requesting such an election passed by $^2/_3$ of the membership of the governing body of each of one or more taxing subdivisions within each of such counties that levy not less than 25% of the property taxes levied by all taxing subdivisions within each of such counties.

(d) Any city retailers' sales tax being levied by a city prior to July 1, 2006, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax or until repealed by the adoption of an ordinance for such repeal. Any countywide retailers' sales tax in the amount of 0.5% or 1% in effect on July 1, 1990, shall continue in effect until repealed in the manner provided herein for the adoption and approval of such tax.

(e) Any city or county proposing to adopt a retailers' sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city or county shall provide by ordinance or resolution, as the case may be, for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by K.S.A. 12-189, and amendments thereto, shall be accomplished in the manner provided herein for the adoption and approval of such tax except that the repeal of any such city retailers' sales tax may be accomplished by the adoption of an ordinance so providing.

(f) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

(g) The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

Sec. 2. K.S.A. 2020 Supp. 12-189 is hereby amended to read as follows: 12-189. The rate of any city retailers' sales tax shall be fixed in increments of 0.05% and in an amount not to exceed 2% for general purposes and not to exceed 1% for special purposes, which shall be determined by the governing body of the city. For any retailers' sales tax imposed by a city for special purposes, such city shall specify the purposes for which such tax is imposed. All such special purpose retailers' sales taxes imposed by a city shall expire after 10 years from the date such tax is first collected. The rate of any countywide retailers' sales tax shall be fixed in an amount not to exceed 1% and shall be fixed in increments of 0.25%, and which amount shall be determined by the board of county commissioners, except that:

(a) The board of county commissioners of Wabaunsee county, for the purposes of K.S.A. 12-187(b)(2), and amendments thereto, may fix such rate at 1.25%; the board of county commissioners of Osage or Reno coun-

ty, for the purposes of K.S.A. 12-187(b)(2), and amendments thereto, may fix such rate at 1.25% or 1.5%; the board of county commissioners of Cherokee, Crawford, Ford, Saline, Seward or Wyandotte county, for the purposes of K.S.A. 12-187(b)(2), and amendments thereto, may fix such rate at 1.5%; the board of county commissioners of Atchison or Thomas county, for the purposes of K.S.A. 12-187(b)(2), and amendments thereto, may fix such rate at 1.5% or 1.75%; the board of county commissioners of Anderson, Barton, Jefferson or Ottawa county, for the purposes of K.S.A. 12-187(b)(2), and amendments thereto, may fix such rate at 2%; the board of county commissioners of Marion county, for the purposes of K.S.A. 12-187(b)(2), and amendments thereto, may fix such rate at 2.5%; the board of county commissioners of Franklin, Linn and Miami counties, for the purposes of K.S.A. 12-187(b)(2), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate allowed to be imposed by the respective board of county commissioners on July 1, 2007, plus up to 1.0%; and the board of county commissioners of Brown county, for the purposes of K.S.A. 12-187(b)(2), and amendments thereto, may fix such rate at up to 2%;

(b) the board of county commissioners of Jackson county, for the purposes of K.S.A. 12-187(b)(3), and amendments thereto, may fix such rate at 2%;

(c) the boards of county commissioners of Finney and Ford counties, for the purposes of K.S.A. 12-187(b)(4), and amendments thereto, may fix such rate at 0.25%;

(d) the board of county commissioners of any county, for the purposes of K.S.A. 12-187(b)(5), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate allowed to be imposed by a board of county commissioners on the effective date of this act plus 0.25%, 0.5%, 0.75% or 1%, as the case requires;

(e) the board of county commissioners of Dickinson county, for the purposes of K.S.A. 12-187(b)(7), and amendments thereto, may fix such rate at 1.5%, and the board of county commissioners of Miami county, for the purposes of K.S.A. 12-187(b)(7), and amendments thereto, may fix such rate at 1.25%, 1.5%, 1.75% or 2%;

(f) the board of county commissioners of Sherman county, for the purposes of K.S.A. 12-187(b)(8), and amendments thereto, may fix such rate at 2.25%;

(g) the board of county commissioners of Crawford or Russell county for the purposes of K.S.A. 12-187(b)(9), and amendments thereto, may fix such rate at 1.5%;

(h) the board of county commissioners of Franklin county, for the purposes of K.S.A. 12-187(b)(10), and amendments thereto, may fix such rate at 1.75%;

(i) the board of county commissioners of Douglas county, for the purposes of K.S.A. 12-187(b)(11) and (b)(30), and amendments thereto, may fix such rate at 1.75%;

(j) the board of county commissioners of Jackson county, for the purposes of K.S.A. 12-187(b)(13), and amendments thereto, may fix such rate at 1.4%;

(k) the board of county commissioners of Sedgwick county, for the purposes of K.S.A. 12-187(b)(3)(C), and amendments thereto, may fix such rate at 2%;

(l) the board of county commissioners of Neosho county, for the purposes of K.S.A. 12-187(b)(14), and amendments thereto, may fix such rate at 1.0% or 1.5%;

(m) the board of county commissioners of Saline county, for the purposes of K.S.A. 12-187(b)(15), and amendments thereto, may fix such rate at up to 1.5%;

(n) the board of county commissioners of Harvey county, for the purposes of K.S.A. 12-187(b)(16), and amendments thereto, may fix such rate at 2.0%;

(o) the board of county commissioners of Atchison county, for the purpose of K.S.A. 12-187(b)(17), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate allowed to be imposed by the board of county commissioners of Atchison county on the effective date of this act plus 0.25%;

(p) the board of county commissioners of Wabaunsee county, for the purpose of K.S.A. 12-187(b)(18), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate allowed to be imposed by the board of county commissioners of Wabaunsee county on July 1, 2007, plus 0.5%;

(q) the board of county commissioners of Jefferson county, for the purpose of K.S.A. 12-187(b)(19) and (25), and amendments thereto, may fix such rate at 2.25%;

(r) the board of county commissioners of Riley county, for the purpose of K.S.A. 12-187(b)(20), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate allowed to be imposed by the board of county commissioners of Riley county on July 1, 2007, plus up to 1%;

(s) the board of county commissioners of Johnson county, for the purposes of K.S.A. 12-187(b)(21), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate allowed to be imposed by the board of county commissioners of Johnson county on July 1, 2007, plus 0.25%;

(t) the board of county commissioners of Wilson county, for the purposes of K.S.A. 12-187(b)(22), and amendments thereto, may fix such rate at up to 2%;

(u) the board of county commissioners of Butler county, for the purposes of K.S.A. 12-187(b)(23), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate otherwise allowed pursuant to this section, plus 0.25%, 0.5%, 0.75% or 1%;

(v) the board of county commissioners of Barton county, for the purposes of K.S.A. 12-187(b)(24), and amendments thereto, may fix such rate at up to 1.5%;

(w) the board of county commissioners of Lyon county, for the purposes of K.S.A. 12-187(b)(3)(D), and amendments thereto, may fix such rate at 1.5%;

(x) the board of county commissioners of Rawlins county, for the purposes of K.S.A. 12-187(b)(3)(E), and amendments thereto, may fix such rate at 1.75%;

(y) the board of county commissioners of Chautauqua county, for the purposes of K.S.A. 12-187(b)(3)(F), and amendments thereto, may fix such rate at 2.0%;

(z) the board of county commissioners of Pottawatomie county, for the purposes of K.S.A. 12-187(b)(26), and amendments thereto, may fix such rate at up to 1.5%;

(aa) the board of county commissioners of Kingman county, for the purposes of K.S.A. 12-187(b)(27), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate otherwise allowed pursuant to this section, plus 0.25%, 0.5%, 0.75%, or 1%;

(bb) the board of county commissioners of Edwards county, for the purposes of K.S.A. 12-187(b)(28), and amendments thereto, may fix such rate at 1.375%;

(cc) the board of county commissioners of Rooks county, for the purposes of K.S.A. 12-187(b)(29), and amendments thereto, may fix such rate at up to 1.5%;

(dd) the board of county commissioners of Bourbon county, for the purposes of K.S.A. 12-187(b)(3)(G) and (b)(31), and amendments thereto, may fix such rate at up to 2.0%;

(ee) the board of county commissioners of Marion county, for the purposes of K.S.A. 12-187(b)(32), and amendments thereto, may fix such rate at 2.5%; ~~and~~

(ff) the board of county commissioners of Finney county, for the purposes of K.S.A. 12-187(b)(3)(H), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate otherwise allowed pursuant to this section, plus 0.3%*; and*

(gg) the board of county commissioners of Cherokee county, for the purposes of K.S.A. 12-187(b)(3)(I), and amendments thereto, may fix such rate at a percentage that is equal to the sum of the rate otherwise allowed pursuant to this section, plus 0.5%.

Any county or city levying a retailers' sales tax is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Except as otherwise specifically provided in K.S.A. 12-189a, and amendments thereto, such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers' sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers' sales tax shall apply to such local sales tax insofar as such laws and rules and regulations may be made applicable. The state director of taxation is hereby authorized to administer, enforce and collect such local sales taxes and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement thereof.

Upon receipt of a certified copy of an ordinance or resolution authorizing the levy of a local retailers' sales tax, the director of taxation shall cause such taxes to be collected within or without the boundaries of such taxing subdivision at the same time and in the same manner provided for the collection of the state retailers' sales tax. Such copy shall be submitted to the director of taxation within 30 days after adoption of any such ordinance or resolution. The director of taxation shall confirm that all provisions of law applicable to the authorization of local sales tax have been followed prior to causing the collection. If the director of taxation discovers that a city or county did not comply with any provision of law applicable to the authorization of a local sales tax after collection has commenced, the director shall immediately notify the city or county and cease collection of such sales tax until such noncompliance is remedied. All moneys collected by the director of taxation under the provisions of this section shall be credited to a county and city retailers' sales tax fund which fund is hereby established in the state treasury, except that all moneys collected by the director of taxation pursuant to the authority granted in K.S.A. 12-187(b)(22), and amendments thereto, shall be credited to the Wilson county capital improvements fund. Any refund due on any county or city retailers' sales tax collected pursuant to this act shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from collections of local retailers' sales tax revenue. Except for local retailers' sales tax revenue required to be deposited in the redevelopment bond fund established under K.S.A. 74-8927, and amendments thereto, all local retailers' sales tax revenue collected within any county or city pursuant to this act shall be apportioned and remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county or city.

Revenue that is received from the imposition of a local retailers' sales tax that exceeds the amount of revenue required to pay the costs of a spe-

cial project for which such revenue was pledged shall be credited to the city or county general fund, as the case requires.

The director of taxation shall provide, upon request by a city or county clerk or treasurer or finance officer of any city or county levying a local retailers' sales tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number. Such report shall be made available to the clerk or treasurer or finance officer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner. Any violation of this paragraph by a city or county officer or employee is a class A misdemeanor, and such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute violations of this paragraph.

Sec. 3. K.S.A. 2020 Supp. 12-192 is hereby amended to read as follows: 12-192. (a) Except as otherwise provided by subsection (b), (d) or (h), all revenue received by the director of taxation from a countywide retailers' sales tax shall be apportioned among the county and each city located in such county in the following manner:

(1) ~~One-half~~ ½ of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year; and

(2) ~~one-half~~ ½ of all revenue received by the director of taxation from such countywide retailers' sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county, except that no persons residing within the Fort Riley military reservation shall be included in the determination of the population of any city located within Riley county.

All revenue apportioned to a county shall be paid to its county treasurer and shall be credited to the general fund of the county.

(b) (1) In lieu of the apportionment formula provided in subsection (a), all revenue received by the director of taxation from a countywide retailers' sales tax imposed within Johnson county at the rate of 0.75%, 1% or 1.25% after July 1, 2007, shall be apportioned among the county and each city located in such county in the following manner:

(A) The revenue received from the first 0.5% rate of tax shall be apportioned in the manner prescribed by subsection (a); and

(B) the revenue received from the rate of tax exceeding 0.5% shall be apportioned as follows:

(i) ~~One-fourth~~ *¼* shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year;

(ii) ~~one-fourth~~ *¼* shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county; and

(iii) ~~one-half~~ *½* shall be retained by the county for its sole use and benefit.

(2) In lieu of the apportionment formula provided in subsection (a), all money received by the director of taxation from a countywide sales tax imposed within Montgomery county pursuant to the election held on November 8, 1994, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged. All revenue apportioned and paid from the imposition of such tax to the treasurer of any city prior to the effective date of this act shall be remitted to the county treasurer and expended only for the purpose for which the revenue received from the tax was pledged.

(3) In lieu of the apportionment formula provided in subsection (a), on and after the effective date of this act, all moneys received by the director of taxation from a countywide retailers' sales tax imposed within Phillips county pursuant to the election held on September 20, 2005, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(c) (1) Except as otherwise provided by paragraph (2) of this subsection, for purposes of subsections (a) and (b), the term "total tangible property tax levies" means the aggregate dollar amount of tax revenue derived from ad valorem tax levies applicable to all tangible property located within each such city or county. The ad valorem property tax levy of any

county or city district entity or subdivision shall be included within this term if the levy of any such district entity or subdivision is applicable to all tangible property located within each such city or county.

(2) For the purposes of subsections (a) and (b), any ad valorem property tax levied on property located in a city in Johnson county for the purpose of providing fire protection service in such city shall be included within the term "total tangible property tax levies" for such city regardless of its applicability to all tangible property located within each such city. If the tax is levied by a district which extends across city boundaries, for purposes of this computation, the amount of such levy shall be apportioned among each city in which such district extends in the proportion that such tax levied within each city bears to the total tax levied by the district.

(d) (1) All revenue received from a countywide retailers' sales tax imposed pursuant to K.S.A. 12-187(b)(2), (3)(C), (3)(F), (3)(G), *(3)(I)*, (6), (7), (8), (9), (12), (14), (15), (16), (17), (18), (19), (20), (22), (23), (25), (27), (28), (29), (30), (31) and (32), and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(2) Except as otherwise provided in K.S.A. 12-187(b)(5), and amendments thereto, all revenues received from a countywide retailers' sales tax imposed pursuant to K.S.A. 12-187(b)(5), and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(3) All revenue received from a countywide retailers' sales tax imposed pursuant to K.S.A. 12-187(b)(26), and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged unless the question of imposing a countywide retailers' sales tax authorized by K.S.A. 12-187(b)(26), and amendments thereto, includes the apportionment of revenue prescribed in subsection (a).

(e) All revenue apportioned to the several cities of the county shall be paid to the respective treasurers thereof and deposited in the general fund of the city. Whenever the territory of any city is located in two or more counties and any one or more of such counties do not levy a countywide retailers' sales tax, or whenever such counties do not levy countywide retailers' sales taxes at a uniform rate, the revenue received by such city from the proceeds of the countywide retailers' sales tax, as an alternative to depositing the same in the general fund, may be used for the purpose of reducing the tax levies of such city upon the taxable tangible property located within the county levying such countywide retailers' sales tax.

(f) Prior to March 1 of each year, the secretary of revenue shall advise each county treasurer of the revenue collected in such county from the state retailers' sales tax for the preceding calendar year.

(g) Prior to December 31 of each year, the clerk of every county imposing a countywide retailers' sales tax shall provide such information deemed necessary by the secretary of revenue to apportion and remit revenue to the counties and cities pursuant to this section.

(h) The provisions of subsections (a) and (b) for the apportionment of countywide retailers' sales tax shall not apply to any revenues received pursuant to a county or countywide retailers' sales tax levied or collected under K.S.A. 74-8929, and amendments thereto. All such revenue collected under K.S.A. 74-8929, and amendments thereto, shall be deposited into the redevelopment bond fund established by K.S.A. 74-8927, and amendments thereto, for the period of time set forth in K.S.A. 74-8927, and amendments thereto.

Sec. 4. K.S.A. 2020 Supp. 12-187, 12-189 and 12-192 are hereby repealed.

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

Approved March 30, 2021.

Published in the *Kansas Register* April 8, 2021.

CHAPTER 11

HOUSE BILL No. 2124

AN ACT concerning the healing arts; relating to healing arts schools; professional services performed thereby; authorization thereof; amending K.S.A. 2020 Supp. 17-2707, 17-7668 and 65-2877a and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 17-2707 is hereby amended to read as follows: 17-2707. As used in this act, unless the context clearly indicates that a different meaning is intended:

(a) "Professional corporation" means a corporation organized under this act.

(b) "Professional service" means the type of personal service rendered by a person duly licensed, registered or certified by this state as a member of any of the following professions, each paragraph constituting one type:

(1) A certified public accountant;
(2) an architect;
(3) an attorney-at-law;
(4) a chiropractor;
(5) a dentist;
(6) an engineer;
(7) an optometrist;
(8) an osteopathic physician or surgeon;
(9) a physician, surgeon or doctor of medicine;
(10) a veterinarian;
(11) a podiatrist;
(12) a pharmacist;
(13) a land surveyor;
(14) a licensed psychologist;
(15) a specialist in clinical social work;
(16) a licensed physical therapist;
(17) a landscape architect;
(18) a registered professional nurse;
(19) a real estate broker or salesperson;
(20) a clinical professional counselor;
(21) a geologist;
(22) a clinical psychotherapist;
(23) a clinical marriage and family therapist;
(24) a licensed physician assistant;
(25) a licensed occupational therapist;
(26) a licensed audiologist;
(27) a licensed speech-pathologist; and

(28) a licensed naturopathic doctor.

(c) "Regulating board" means the court, board or state agency ~~which~~ *that* is charged with the licensing, registering or certifying and regulation of the practice of the profession ~~which~~ *that* the professional corporation is organized to render.

(d) "Qualified person" means:

(1) Any natural person licensed, registered or certified to practice the same type of profession ~~which~~ *that* any professional corporation is authorized to practice;

(2) the trustee of a trust ~~which~~ *that* is a qualified trust under ~~subsection (a) of~~ section 401*(a)* of the federal internal revenue code, as in effect on January 1, 2004, or of a contribution plan ~~which~~ *that* is a qualified employee stock ownership plan under ~~subsection (a) of~~ section 409A*(a)* of the federal internal revenue code, as in effect on January 1, 2004; ~~or~~

(3) the trustee of a revocable living trust established by a natural person who is licensed, registered or certified to practice the type of profession ~~which~~ *that* any professional corporation is authorized to practice, if the terms of such trust provide that such natural person is the principal beneficiary and sole trustee of such trust and such trust does not continue to hold title to professional corporation stock following such natural person's death for more than a reasonable period of time necessary to dispose of such stock*; or*

(4) a healing arts school clinic authorized to perform professional services in accordance with K.S.A. 65-2877a, and amendments thereto.

Sec. 2. K.S.A. 2020 Supp. 17-7668 is hereby amended to read as follows: 17-7668. (a) Unless otherwise specifically prohibited by law, a limited liability company may carry on any lawful business, purpose or activity, whether or not for profit with the exception of the business of granting policies of insurance, or assuming insurance risks or banking as defined in K.S.A. 9-702, and amendments thereto.

(b) A limited liability company shall possess and may exercise all the powers and privileges granted by this act or by any other law or by its operating agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the limited liability company.

(c) A limited liability company organized and existing under the Kansas revised limited liability company act or otherwise qualified to do business in Kansas may have and exercise all powers ~~which~~ *that* may be exercised by a Kansas professional association or professional corporation under the professional corporation law of Kansas, including employment of professionals to practice a profession, which shall be limited to the practice of one profession, except as provided in K.S.A. 17-2710, and amendments thereto.

(d) Only a qualified person may be a member of a limited liability company organized to exercise powers of a professional association or professional corporation. No membership may be transferred to another person until there is presented to such limited liability company a certificate by the licensing body, as defined in K.S.A. 74-146, and amendments thereto, stating that the person to whom the transfer is made or the membership issued is duly licensed to render the same type of professional services as that for which the limited liability company was organized.

(e) As used in the section, "qualified person" means:

(1) Any natural person licensed to practice the same type of profession ~~which~~ *that* any professional association or professional corporation is authorized to practice;

(2) the trustee of a trust ~~which~~ *that* is a qualified trust under ~~subsection (a) of~~ section 401*(a)* of the federal internal revenue code of 1986, as in effect, on July 1, 1999, or of a contribution plan ~~which~~ *that* is a qualified employee stock ownership plan under ~~subsection (a) of~~ section 409A*(a)* of the federal internal revenue code of 1986, as in effect, on July 1, 1999;

(3) the trustee of a revocable living trust established by a natural person who is licensed to practice the type of profession ~~which~~ *that* any professional association or professional corporation is authorized to practice, if the terms of such trust provide that such natural person is the principal beneficiary and sole trustee of such trust and such trust does not continue to hold title to membership in the limited liability company following such natural person's death for more than a reasonable period of time necessary to dispose of such membership;

(4) a Kansas professional corporation or foreign professional corporation in which at least one member or shareholder is authorized by a licensing body, as defined in K.S.A. 74-146, and amendments thereto, to render in this state a professional service permitted by the articles of organization; ~~or~~

(5) a general partnership or limited liability company, if all partners or members thereof are authorized to render the professional services permitted by the articles of organization of the limited liability company formed pursuant to this section and in which at least one partner or member is authorized by a licensing authority of this state to render in this state the professional services permitted by the articles of organization of the limited liability company*; or*

(6) a healing arts school clinic authorized to perform professional services in accordance with K.S.A. 65-2877a, and amendments thereto.

(f) Nothing in this act shall restrict or limit in any manner the authority and duty of any licensing body, as defined in K.S.A. 74-146, and amendments thereto, for the licensing of individual persons rendering a professional service or the practice of the profession ~~which~~ *that* is within

the jurisdiction of the licensing body, notwithstanding that the person is an officer, manager, member or employee of a limited liability company organized to exercise powers of a professional association or professional corporation. Each licensing body may adopt rules and regulations governing the practice of each profession as are necessary to enforce and comply with this act and the law applicable to each profession.

(g) A licensing body, as defined in K.S.A. 74-146, and amendments thereto, the attorney general or district or county attorney may bring an action in the name of the state of Kansas in quo warranto or injunction against a limited liability company engaging in the practice of a profession without complying with the provisions of this act.

(h) Notwithstanding any provision of this act to the contrary, without limiting the general powers enumerated in subsection (b), a limited liability company shall, subject to such standards and restrictions, if any, as are set forth in its operating agreement, have the power and authority to make contracts of guaranty and suretyship and enter into interest rate, basis, currency, hedge or other swap agreements or cap, floor, put, call, option, exchange or collar agreements, derivative agreements, or other agreements similar to any of the foregoing.

(i) Unless otherwise provided in an operating agreement, a limited liability company has the power and authority to grant, hold or exercise a power of attorney, including an irrevocable power of attorney.

Sec. 3. K.S.A. 2020 Supp. 65-2877a is hereby amended to read as follows: 65-2877a. No provision of law prohibiting practice of the healing arts by a ~~general corporation~~ *business organization* shall apply to a healing arts school *clinic under the supervision of a person licensed to practice the same branch of the healing arts if such healing arts school is:*

(a) Approved by the board ~~if the healing arts school is~~*;*

(b) a non-profit entity under section 501(c)(3) of the internal revenue code of 1986~~, is~~*; and*

(c) approved by the state board of regents~~, and as part of its academic requirements provides clinical training to its students under the supervision of persons who are licensed to practice a branch of the healing arts in this state~~ *or exempt from such approval under K.S.A. 74-32,164, and amendments thereto*.

Sec. 4. K.S.A. 2020 Supp. 17-2707, 17-7668 and 65-2877a are hereby repealed.

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

Approved March 30, 2021.

CHAPTER 12

HOUSE BILL No. 2078

AN ACT concerning criminal procedure; relating to discharge of persons not brought promptly to trial; suspension of statutory deadlines; providing guidelines for prioritizing trials; requiring the office of judicial administration to prepare and submit a report to the legislature in 2022 and 2023; amending K.S.A. 2020 Supp. 22-3402 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 22-3402 is hereby amended to read as follows: 22-3402. (a) If any person charged with a crime and held in jail solely by reason thereof shall not be brought to trial within 150 days after such person's arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant or a continuance shall be ordered by the court under subsection (e).

(b) If any person charged with a crime and held to answer on an appearance bond shall not be brought to trial within 180 days after arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant, or a continuance shall be ordered by the court under subsection (e).

(c) If any trial scheduled within the time limitation prescribed by subsection (a) or (b) is delayed by the application of or at the request of the defendant, the trial shall be rescheduled within 90 days of the original trial deadline.

(d) After any trial date has been set within the time limitation prescribed by subsection (a), (b) or (c), if the defendant fails to appear for the trial or any pretrial hearing, and a bench warrant is ordered, the trial shall be rescheduled within 90 days after the defendant has appeared in court after apprehension or surrender on such warrant. However, if the defendant was subject to the 180-day deadline prescribed by subsection (b) and more than 90 days of the original time limitation remain, then the original time limitation remains in effect.

(e) For those situations not otherwise covered by subsection (a), (b) or (c), the time for trial may be extended for any of the following reasons:

(1) The defendant is incompetent to stand trial. If the defendant is subsequently found to be competent to stand trial, the trial shall be scheduled as soon as practicable and in any event within 90 days of such finding;

(2) a proceeding to determine the defendant's competency to stand trial is pending. If the defendant is subsequently found to be competent to stand trial, the trial shall be scheduled as soon as practicable and in any event within 90 days of such finding. However, if the defendant was

subject to the 180-day deadline prescribed by subsection (b) and more than 90 days of the original time limitation remain, then the original time limitation remains in effect. The time that a decision is pending on competency shall never be counted against the state;

(3) there is material evidence which is unavailable; that reasonable efforts have been made to procure such evidence; and that there are reasonable grounds to believe that such evidence can be obtained and trial commenced within the next succeeding 90 days. Not more than one continuance may be granted the state on this ground, unless for good cause shown, where the original continuance was for less than 90 days, and the trial is commenced within 120 days from the original trial date; or

(4) because of other cases pending for trial, the court does not have sufficient time to commence the trial of the case within the time fixed for trial by this section. Not more than one continuance of not more than 30 days may be ordered upon this ground.

(f) In the event a mistrial is declared, a motion for new trial is granted or a conviction is reversed on appeal to the supreme court or court of appeals, the time limitations provided for herein shall commence to run from the date the mistrial is declared, the date a new trial is ordered or the date the mandate of the supreme court or court of appeals is filed in the district court.

(g) If a defendant, or defendant's attorney in consultation with the defendant, requests a delay and such delay is granted, the delay shall be charged to the defendant regardless of the reasons for making the request, unless there is prosecutorial misconduct related to such delay. If a delay is initially attributed to the defendant, but is subsequently charged to the state for any reason, such delay shall not be considered against the state under subsections (a), (b) or (c) and shall not be used as a ground for dismissing a case or for reversing a conviction unless not considering such delay would result in a violation of the constitutional right to a speedy trial or there is prosecutorial misconduct related to such delay.

(h) When a scheduled trial is scheduled within the period allowed by subsections (a), (b) or (c) and is delayed because a party has made or filed a motion, or because the court raises a concern on its own, the time elapsing from the date of the making or filing of the motion, or the court's raising a concern, until the matter is resolved by court order shall not be considered when determining if a violation under subsections (a), (b) or (c) has occurred. If the resolution of such motion or concern by court order occurs at a time when less than 30 days remains under the provisions of subsections (a), (b) or (c), the time in which the defendant shall be brought to trial is extended 30 days from the date of the court order.

(i) If the state requests and is granted a delay for any reason provided in this statute, the time elapsing because of the order granting the delay shall not be subsequently counted against the state if an appellate court later de-

termines that the district court erred by granting the state's request unless not considering such delay would result in a violation of the constitutional right to a speedy trial or there is prosecutorial misconduct related to such delay.

(j) ~~The chief justice of the Kansas supreme court may issue an order to extend or suspend any deadlines or time limitations established in this section pursuant to K.S.A. 2020 Supp. 20-172, and amendments thereto. When an order issued pursuant to K.S.A. 2020 Supp. 20-172, and amendments thereto, is terminated, any trial scheduled to occur during the time such order was in effect shall be placed back on the court schedule within 150 days.~~ *The provisions of this section shall be suspended until May 1, 2023, in all criminal cases.*

(k) When prioritizing cases for trial, trial courts shall consider relevant factors, including, but not limited to, the:

(1) Trial court's calendar;

(2) relative prejudice to the defendant;

(3) defendant's assertion of the right to speedy trial;

(4) calendar of trial counsel;

(5) availability of witnesses; and

(6) relative safety of the proceedings to participants as a result of the response to the COVID-19 public health emergency in the judicial district.

(l) The office of judicial administration shall prepare and submit a report to the senate standing committee on judiciary and the house of representatives standing committee on judiciary on or before January 17, 2022, and January 16, 2023, containing the following information disaggregated by judicial district:

(1) The number of pending criminal cases on January 1, 2022, and January 1, 2023, respectively;

(2) the number of criminal cases resolved during fiscal years 2021 and 2022, respectively, and the method of disposition in each case;

(3) the number of jury trials conducted in criminal cases during fiscal years 2021 and 2022, respectively; and

(4) the number of new criminal cases filed in fiscal years 2021 and 2022, respectively.

(m) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

Sec. 2. K.S.A. 2020 Supp. 22-3402 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 30, 2021.

Published in the *Kansas Register* March 31, 2021.

CHAPTER 13

SENATE BILL No. 77*

AN ACT concerning health professions and practices; relating to audiologists and speech-language pathologists; licensure; enacting the audiology and speech-language pathology interstate compact.

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

Section 1. This act shall be known and may be cited as the audiology and speech-language pathology interstate compact.

AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

SECTION 1
PURPOSE

The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient or client or student is located at the time of the patient or client or student encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

(a) Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

(b) enhance the states' ability to protect the public's health and safety;

(c) encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

(d) support spouses of relocating active duty military personnel;

(e) enhance the exchange of licensure, investigative and disciplinary information between member states;

(f) allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

(g) allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

SECTION 2
DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions shall apply:

(a) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

(b) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee or restriction on the licensee's practice.

(c) "Alternative program" means a non-disciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

(d) "Audiologist" means an individual who is licensed by a state to practice audiology.

(e) "Audiology" means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.

(f) "Audiology and speech-language pathology compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

(g) "Audiology and speech-language pathology licensing board," "audiology licensing board," "speech-language pathology licensing board," or "licensing board" means the agency of a state that is responsible for the licensing and regulation of audiologists or speech-language pathologists.

(h) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient or client or student is located at the time of the patient or client or student encounter.

(i) "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(j) "Data system" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, compact privilege and adverse action.

(k) "Encumbered license" means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and said adverse action has been reported to the national practitioners data bank, NPDB.

(l) "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(m) "Home state" means the member state that is the licensee's primary state of residence.

(n) "Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction or other health-related conditions.

(o) "Licensee" means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

(p) "Member state" means a state that has enacted the compact.

(q) "Privilege to practice" means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

(r) "Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

(s) "Rule" means a regulation, principle or directive promulgated by the commission that has the force of law.

(t) "Single-state license" means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

(u) "Speech-language pathologist" means an individual who is licensed by a state to practice speech-language pathology.

(v) "Speech-language pathology" means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules.

(w) "State" means any state, commonwealth, district or territory of the United States of America that regulates the practice of audiology and speech-language pathology.

(x) "State practice laws" means a member state's laws, rules and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice and create the methods and grounds for imposing discipline.

(y) "Telehealth" means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention and consultation.

SECTION 3

STATE PARTICIPATION IN THE COMPACT

(a) A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

(b) A state shall implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice.

These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(1) A member state shall fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions.

(2) Communication between a member state, the commission and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under public law 92-544.

(c) Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant or whether any adverse action has been taken against any license or privilege to practice held by the applicant.

(d) Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

(e) An audiologist shall:

(1) Meet one of the following educational requirements:

(A) On or before December 31, 2007, have graduated with a master's degree or doctorate in audiology or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the council for higher education accreditation, or its successor, or by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board;

(B) on or after January 1, 2008, have graduated with a doctoral degree in audiology or equivalent degree regardless of degree name from a program that is accredited by an accrediting agency recognized by the council for higher education accreditation, or its successor, or by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board; or

(C) have graduated from an audiology program that is housed in an institution of higher education outside of the United States for which: (i) The program and institution have been approved by the authorized accrediting body in the applicable country; and (ii) the degree program

has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

(2) have completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the commission;

(3) have successfully passed a national examination approved by the commission;

(4) hold an active, unencumbered license;

(5) have not been convicted or found guilty, and have not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law; and

(6) have a valid United States social security or national practitioner identification number.

(f) A speech-language pathologist shall:

(1) Meet one of the following educational requirements:

(A) Have graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board;

(B) have graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States for which: (i) The program and institution have been approved by the authorized accrediting body in the applicable country; and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program; or

(C) have completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the commission;

(2) have completed a supervised postgraduate professional experience as required by the commission;

(3) have successfully passed a national examination approved by the commission;

(4) hold an active, unencumbered license;

(5) have not been convicted or found guilty, and have not entered into an agreed disposition, of a felony related to the practice of speech-language pathology, under applicable state or federal criminal law; and

(6) have a valid United States social security or national practitioner identification number.

(g) The privilege to practice is derived from the home state license.

(h) An audiologist or speech-language pathologist practicing in a member state shall comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of

audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts and the laws of the member state in which the client is located at the time service is provided.

(i) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(j) Member states may charge a fee for granting a compact privilege.

(k) Member states shall comply with the bylaws and rules and regulations of the commission.

SECTION 4
COMPACT PRIVILEGE

(a) To exercise the compact privilege under the terms and provisions of the compact, the audiologist or speech-language pathologist shall:

(1) Hold an active license in the home state;

(2) have no encumbrance on any state license;

(3) be eligible for a compact privilege in any member state in accordance with section 3;

(4) have not had any adverse action against any license or compact privilege within the previous two years from date of application;

(5) notify the commission that the licensee is seeking the compact privilege within a remote state;

(6) pay any applicable fees, including any state fee, for the compact privilege; and

(7) report to the commission any adverse action taken by a nonmember state within 30 days from the date the adverse action is taken.

(b) For the purposes of the compact privilege, an audiologist or speech-language pathologist shall only hold one home state license at a time.

(c) Except as provided in section 6, if an audiologist or speech-language pathologist changes primary state of residence by moving between two member states, the audiologist or speech-language pathologist shall apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the commission.

(d) The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

(e) A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

(f) If an audiologist or speech-language pathologist changes the audiologist's or speech-language pathologist's primary state of residence by moving from a member state to a non-member state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state.

(g) The compact privilege is valid until the expiration date of the home state license. The licensee shall comply with the requirements of section 4(a) to maintain the compact privilege in the remote state.

(h) A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(i) A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines or take any other necessary actions to protect the health and safety of its citizens.

(j) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

(1) The home state license is no longer encumbered; and

(2) two years have elapsed from the date of the adverse action.

(k) Once an encumbered license in the home state is restored to good standing, the licensee shall be required to meet the requirements of section 4(a) to obtain a compact privilege in any remote state.

(l) Once the requirements of section 4(j) have been met, the licensee shall be required to meet the requirements in section 4(a) to obtain a compact privilege in a remote state.

SECTION 5

COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with section 3 and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

SECTION 6

ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The

individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state.

SECTION 7
ADVERSE ACTIONS

(a) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(1) Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state; and

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(3) Only the home state shall have the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

(b) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(c) The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

(d) If otherwise permitted by state law, the member state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

(e) The member state may take adverse action based on the factual findings of the remote state, provided that the member state follows the member state's own procedures for taking the adverse action.

(f) *Joint Investigations.*

(1) In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(g) If adverse action is taken by the home state against an audiologist's or speech language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

(h) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(i) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

SECTION 8

ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION

(a) The compact member states hereby create and establish a joint public agency known as the audiology and speech-language pathology compact commission.

(1) The commission is an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting and meetings:

(1) Each member state shall have two delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist;

(2) an additional five delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the executive committee from a pool of nominees provided by the commission at large;

(3) any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed; and

(4) the member state board shall fill any vacancy occurring on the commission, within 90 days.

(5) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(6) A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(c) The commission shall have the following powers and duties:

(1) Establish the fiscal year of the commission;

(2) establish bylaws;

(3) establish a code of ethics;

(4) maintain its financial records in accordance with the bylaws;

(5) meet and take actions as are consistent with the provisions of this compact and the bylaws;

(6) promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

(7) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

(8) purchase and maintain insurance and bonds;

(9) borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state;

(10) hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(11) accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety and conflict of interest;

(12) lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed, provided that at all times the commission shall avoid any appearance of impropriety;

(13) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(14) establish a budget and make expenditures;

(15) borrow money;

(16) appoint committees, including standing committees composed of members and other interested persons as may be designated in this compact and the bylaws;

(17) provide and receive information from, and cooperate with, law enforcement agencies;

(18) establish and elect an executive committee; and

(19) perform other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

(d) *Executive committee.*

(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.

(2) The executive committee shall be composed of 10 members:

(A) Seven voting members who are elected by the commission from the current membership of the commission;

(B) two ex-officio members, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

(C) one ex-officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

(e) The ex-officio members shall be selected by their respective organizations.

(1) The commission may remove any member of the executive committee as provided in the bylaws.

(2) The executive committee shall meet at least annually.

(3) The executive committee shall have the following duties and responsibilities:

(A) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues and any commission compact fee charged to licensees for the compact privilege;

(B) ensure compact administration services are appropriately provided, contractual or otherwise;

(C) prepare and recommend the budget;

(D) maintain financial records on behalf of the commission;

(E) monitor compact compliance of member states and provide compliance reports to the commission;

(F) establish additional committees as necessary; and

(G) other duties as provided in rules or bylaws.

(4) *Meetings of the commission.* All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 10.

(5) The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting if the commission or executive committee or other committees of the commission must discuss:

(A) Non-compliance of a member state with its obligations under the compact;

(B) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened or reasonably anticipated litigation;

(D) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(E) accusing any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigative records compiled for law enforcement purposes;

(I) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(J) matters specifically exempted from disclosure by federal or member state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(7) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor including a description of the views expressed. All documents considered in connection with an action shall be identified in minutes. All minutes and documents of a

closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(8) *Financing of the commission.*

(A) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(B) The commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

(C) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which shall be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(9) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(10) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(f) *Qualified immunity, defense and indemnification.*

(1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties

or responsibilities or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel, and provided further that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 9

DATA SYSTEM

(a) The commission shall provide for the development, maintenance and utilization of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) Identifying information;

(2) licensure data;

(3) adverse actions against a license or compact privilege;

(4) non-confidential information related to alternative program participation;

(5) any denial of application for licensure, and the reason for denial; and

(6) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) Investigative information pertaining to a licensee in any member state shall only be available to other member states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 10

RULEMAKING

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule shall be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission or other publicly accessible platform; and

(2) on the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(e) The notice of proposed rulemaking shall include:

(1) The proposed time, date and location of the meeting in which the rule shall be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(f) Prior to the adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(g) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons;

(2) a state or federal governmental subdivision or agency; or

(3) an association having at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings shall be recorded. A copy of the recording shall be made available on request.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(j) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(k) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety or welfare;

(2) prevent a loss of commission or member state funds; or

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision

may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

SECTION 11
OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

(a) *Dispute Resolution.*

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(b) *Enforcement.*

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

SECTION 12
DATE OF IMPLEMENTATION OF THE
INTERSTATE COMMISSION
FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND
AMENDMENT

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has

been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(c) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 13

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 14

BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision

shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

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

Approved March 30, 2021.

Published in the *Kansas Register* March 31, 2021.

CHAPTER 14

SENATE BILL No. 283
(Amends Chapter 1)
(Amended by Chapter 113)

AN ACT concerning the governmental response to the COVID-19 pandemic in Kansas; extending the expanded use of telemedicine in response to the COVID-19 public health emergency; extending the authority of the board of healing arts to grant certain temporary emergency licenses; imposing requirements related thereto and expiring such provisions; extending the suspension of certain requirements related to medical care facilities and expiring such provisions; modifying the COVID-19 response and reopening for business liability protection act; extending immunity from civil liability for certain healthcare providers and for certain persons conducting business in this state for COVID-19 claims until March 31, 2022; amending K.S.A. 2020 Supp. 48-963, as amended by section 7 of 2021 Senate Bill No. 14, 48-964, 48-965, as amended by section 8 of 2021 Senate Bill No. 14, 60-5503, 60-5504, as amended by section 10 of 2021 Senate Bill No. 14, 60-5508 and 65-468 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 48-963, as amended by section 7 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-963. (a) A physician may issue a prescription for or order the administration of medication, including a controlled substance, for a patient without conducting an in-person examination of such patient.

(b) A physician under quarantine, including self-imposed quarantine, may practice telemedicine.

(c) (1) A physician holding a license issued by the applicable licensing agency of another state may practice telemedicine to treat patients located in the state of Kansas, if such out-of-state physician:

~~(A) Advises the state board of healing arts of such practice in writing and in a manner determined by the state board of healing arts; and~~

~~(B) holds an unrestricted license to practice medicine and surgery in the other state and is not the subject of any investigation or disciplinary action by the applicable licensing agency~~ *holds a temporary emergency license granted pursuant to K.S.A. 2020 Supp. 48-965, and amendments thereto.*

(2) The state board of healing arts may extend the provisions of this subsection to other healthcare professionals licensed and regulated by the board as deemed necessary by the board to address the impacts of COVID-19 and consistent with ensuring patient safety.

(d) A physician practicing telemedicine in accordance with this section shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.

(e) Nothing in this section shall supersede or otherwise affect the provisions of K.S.A. 65-4a10, and amendments thereto, or K.S.A. 2020 Supp. 40-2,215, and amendments thereto.

(f) As used in this section:

(1) "Physician" means a person licensed to practice medicine and surgery.

(2) "Telemedicine" means the delivery of healthcare services by a healthcare provider while the patient is at a different physical location.

(g) This section shall expire on March 31, ~~2021~~*2022*.

Sec. 2. K.S.A. 2020 Supp. 48-964 is hereby amended to read as follows: 48-964. (a) (1) A hospital may admit patients in excess of such hospital's number of licensed beds or inconsistent with the licensed classification of such hospital's beds to the extent that such hospital determines is necessary to treat COVID-19 patients and to separate COVID-19 patients and non-COVID-19 patients.

(2) A hospital admitting patients in such manner shall notify the department of health and environment as soon as practicable but shall not be required to receive prior authorization to admit patients in such manner.

(b) (1) A hospital may utilize non-hospital space, including off-campus space, to perform COVID-19 testing, triage, quarantine or patient care to the extent that such hospital determines is necessary to treat COVID-19 patients and to separate COVID-19 patients and non-COVID-19 patients.

(2) The department of health and environment may impose reasonable safety requirements on such use of non-hospital space to maximize the availability of patient care.

(3) Non-hospital space used in such manner shall be deemed to meet the requirements of K.S.A. 65-431(d), and amendments thereto.

(4) A hospital utilizing non-hospital space in such manner shall notify the department of health and environment as soon as practicable but shall not be required to receive prior authorization to utilize non-hospital space in such manner.

(c) A medical care facility may permit healthcare providers authorized to provide healthcare services in the state of Kansas to provide healthcare services at such medical care facility without becoming a member of the medical care facility's medical staff.

(d) As used in this section, "hospital" and "medical care facility" mean the same as defined in K.S.A. 65-425, and amendments thereto.

(e) This section shall expire ~~120 calendar days after the expiration or termination of the state of disaster emergency proclamation issued by the governor in response to the COVID-19 public health emergency, or any extension thereof~~ *on March 31, 2022*.

Sec. 3. K.S.A. 2020 Supp. 48-965, as amended by section 8 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 48-965. (a) Notwithstanding any statute to the contrary, the state board of healing arts may grant a temporary emergency license to practice any profession licensed, certified, registered or regulated by the board to an applicant

with qualifications the board deems sufficient to protect public safety and welfare within the scope of professional practice authorized by the temporary emergency license for the purpose of preparing for, responding to or mitigating any effect of COVID-19.

(b) *Notwithstanding any statute to the contrary, an applicant may practice in Kansas pursuant to a temporary emergency license upon submission of a non-resident healthcare provider certification form to the Kansas healthcare stabilization fund and without paying the surcharge required by K.S.A. 40-3404, and amendments thereto.*

(c) This section shall expire on March 31, ~~2021~~*2022*.

Sec. 4. K.S.A. 2020 Supp. 60-5503 is hereby amended to read as follows: 60-5503. (a) Notwithstanding any other provision of law, except as provided in subsection (c), a healthcare provider is immune from civil liability for damages, administrative fines or penalties for acts, omissions, healthcare decisions or the rendering of or the failure to render healthcare services, including services that are altered, delayed or withheld, as a direct response to ~~any state of disaster emergency declared pursuant to K.S.A. 48-924, and amendments thereto, related to~~ the COVID-19 public health emergency.

(b) The provisions of this section shall apply to any claims for damages or liability that arise out of or relate to acts, omissions or healthcare decisions occurring ~~during any state of disaster emergency declared pursuant to K.S.A. 48-924, and amendments thereto~~ *between March 12, 2020, and March 31, 2022*, related to the COVID-19 public health emergency.

(c) (1) The provisions of this section shall not apply to civil liability when it is established that the act, omission or healthcare decision constituted gross negligence or willful, wanton or reckless conduct.

(2) The provisions of this section shall not apply to healthcare services not related to COVID-19 that have not been altered, delayed or withheld as a direct response to the COVID-19 public health emergency.

Sec. 5. K.S.A. 2020 Supp. 60-5504, as amended by section 10 of 2021 Senate Bill No. 14, is hereby amended to read as follows: 60-5504. (a) Notwithstanding any other provision of law, a person, or an agent of such person, conducting business in this state shall be immune from liability in a civil action for a COVID-19 claim if such person was acting pursuant to and in substantial compliance with public health directives applicable to the activity giving rise to the cause of action when the cause of action accrued.

(b) The provisions of this section shall expire on March 31, ~~2021~~ *2022*.

Sec. 6. K.S.A. 2020 Supp. 60-5508 is hereby amended to read as follows: 60-5508. (a) The provisions of K.S.A. 2020 Supp. 60-5504, 60-5505 and 60-5507, and amendments thereto, shall apply retroactively to any cause of action accruing on or after March 12, 2020.

(b) The provisions of K.S.A. 2020 Supp. ~~60-5503 and~~ 60-5506, and amendments thereto, shall apply retroactively to any cause of action accruing on or after March 12, 2020, and prior to termination of the state of disaster emergency related to the COVID-19 public health emergency declared pursuant to K.S.A. 48-924, and amendments thereto.

(c) The provisions of K.S.A. 2020 Supp. 60-5503, and amendments thereto, shall apply retroactively to any cause of action accruing on or after March 12, 2020, and prior to March 31, 2022.

Sec. 7. K.S.A. 2020 Supp. 65-468 is hereby amended to read as follows: 65-468. As used in K.S.A. 65-468 through 65-474, and amendments thereto:

(a) "Healthcare provider" means any person licensed or otherwise authorized by law to provide health care services in this state or a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by law to form such corporation and who are health care providers as defined by this subsection, or an officer, employee or agent thereof, acting in the course and scope of employment or agency.

(b) "Member" means any hospital, emergency medical service, local health department, home health agency, adult care home, medical clinic, mental health center or clinic or nonemergency transportation system.

(c) "Mid-level practitioner" means a physician assistant or advanced practice registered nurse who has entered into a written protocol with a rural health network physician.

(d) "Physician" means a person licensed to practice medicine and surgery.

(e) "Rural health network" means an alliance of members, including at least one critical access hospital and at least one other hospital, that has developed a comprehensive plan submitted to and approved by the secretary of health and environment regarding: Patient referral and transfer; the provision of emergency and nonemergency transportation among members; the development of a network-wide emergency services plan; and the development of a plan for sharing patient information and services between hospital members concerning medical staff credentialing, risk management, quality assurance and peer review.

(f) (1) "Critical access hospital" means a member of a rural health network that: Makes available 24-hour emergency care services; provides not more than 25 acute care inpatient beds or in the case of a facility with an approved swing-bed agreement a combined total of extended care and acute care beds that does not exceed 25 beds; provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient; and provides nursing services under the direction of a licensed professional nurse and continuous licensed professional nursing

services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients unless an exemption is granted by the licensing agency pursuant to rules and regulations. The critical access hospital may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist and radiological technologist on a part-time, off-site basis under written agreements or arrangements with one or more providers or suppliers recognized under medicare. The critical access hospital may provide inpatient services by a physician assistant, advanced practice registered nurse or a clinical nurse specialist subject to the oversight of a physician who need not be present in the facility. In addition to the facility's 25 acute beds or swing beds, or both, the critical access hospital may have a psychiatric unit or a rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither unit shall count toward the 25-bed limit or be subject to the average 96-hour length of stay restriction.

(2) Notwithstanding the provisions of paragraph (1), prior to ~~June 30, 2021~~*March 31, 2022*, to the extent that a critical access hospital determines it is necessary to treat COVID-19 patients or to separate COVID-19 patients and non-COVID-19 patients, such critical access hospital shall not be limited to 25 beds or, in the case of a facility with an approved swing bed agreement, to a combined total of 25 extended care and acute care beds, and shall not be limited to providing acute inpatient care for a period of time that does not exceed, on an annual average basis, 96 hours per patient.

(g) "Hospital" means a hospital other than a critical access hospital that has entered into a written agreement with at least one critical access hospital to form a rural health network and to provide medical or administrative supporting services within the limit of the hospital's capabilities.

Sec. 8. K.S.A. 2020 Supp. 48-963, as amended by section 7 of 2021 Senate Bill No. 14, 48-964, 48-965, as amended by section 8 of 2021 Senate Bill No. 14, 60-5503, 60-5504, as amended by section 10 of 2021 Senate Bill No. 14, 60-5508 and 65-468 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 31, 2021.

Published in the *Kansas Register* April 1, 2021.

CHAPTER 15

HOUSE BILL No. 2063

AN ACT concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; providing certain spousal and children's benefits for death resulting from a service-connected disability; enacting the Michael Wells memorial act; amending K.S.A. 74-4960a and repealing the existing section.

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

Section 1. K.S.A. 74-4960a is hereby amended to read as follows: 74-4960a. (1) If any active contributing member who is appointed or employed on or after July 1, 1989, or who makes an election pursuant to K.S.A. 74-4955a, and amendments thereto, to be covered by the provisions of this act becomes disabled as defined in subsection (2), such member shall receive a monthly benefit equal to 50% of the member's final average salary at the time such member was disabled payable in monthly installments, accruing from the first day upon which the member ceases to draw compensation, if a report of the disability in such form and manner as the board shall prescribe is filed in the office of the executive director of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed in the office of the executive director of the board within two years of the date of the commencement of such disability, except that the board may waive such two-year requirement, if the board is presented with evidence that clearly warrants such a waiver.

(2) For the purposes of this section, "disabled" means total inability to perform permanently the duties of the position of policeman or fireman.

(3) In the event a member who is disabled and entitled to such benefits as provided in subsection (1) dies after the date of such disability, the following benefits shall be payable:

~~(i)~~*(a) On and after January 1, 2017,* pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, *if the member's death is not service-connected as defined in K.S.A. 74-4952(10), and amendments thereto,* to the member's spouse, if lawfully wedded to the member at the time of the member's death, and if no benefits are payable under ~~subsection (3) of~~ K.S.A. 74-4958a*(3)*, and amendments thereto, a lump-sum benefit equal to 50% of the member's final average salary at the time such member was disabled.

~~(ii)~~*(b)* To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pur-

suant 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 surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student 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.

(c) On and after January 1, 2017, pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, if the member's death is service-connected as defined in K.S.A. 74-4952(10), and amendments thereto, to the member's spouse, if lawfully wedded to the member at the time of the member's death, and if no benefits are payable under K.S.A. 74-4958a(3), and amendments thereto, a spouse's benefit equal to 50% of the member's final average salary or, if the member has no dependents as outlined in subsection (3)(b), the retirement benefit the member would have been entitled to as provided under K.S.A. 74-4958a, and amendments thereto, had the member retired, whichever is greater. Such benefit shall accrue from the day upon which the member ceases to draw compensation.

(d) Except as otherwise provided by this subsection, each of the member's children under the age of 18 years or each of the member's children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, shall receive an annual benefit equal to 10% of the member's final average salary. Such benefit shall accrue from the day upon which the member ceases to draw compensation and shall end on the last day of the month in which each such child shall attain the age of 18 years or die, whichever occurs earlier or in which each 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.

(e) In no case shall the total of the benefits payable under subsection (3)(c) and (d) be in excess of 75% of the member's final average salary.

(f) The provisions of the amendments made to subsection (3) by this act shall be named the Michael Wells memorial act.

(4) Any member who was employed for compensation by an employer other than the member's participating employer and whose disability was incurred in the course of such other employment shall not be eligible for any of the benefits provided in subsection (1) or (3).

(5) If a member becomes totally and permanently disabled and no benefits are payable under subsection (1), the sum of the member's accumulated contributions shall be paid to the member.

(6) Any member receiving benefits under this section shall submit to medical examination, not more frequent than annually, by one or more physicians or any other practitioners of the healing arts holding a valid license issued by the state board of healing arts to practice a branch of the healing arts, as the board of trustees may direct. If upon such medical examination, the examiner's report to the board states that the member is physically able and capable of resuming employment with the same or a different participating employer, the disability benefits shall terminate. A member who has been receiving benefits under the provisions of this section and who returns to employment, as defined in ~~subsection (4) of~~ K.S.A. 74-4952*(4)*, and amendments thereto, of a participating employer shall immediately commence accruing service credit which shall be added to that which has been accrued by virtue of previous service.

(7) Any member who has been receiving benefits under the provisions of this section for a period of five years shall be deemed permanent and shall not be subject to further medical examinations, except that if the board of trustees shall have reasonable grounds to question whether the member remains totally and permanently disabled, a further medical examination or examinations may be required.

(8) Refusal or neglect to submit to examination as provided in subsection (6) shall be sufficient cause for suspending or discontinuing benefit payments under this section and if such refusal or neglect shall continue for a period of one year, the member's rights in and to all benefits under this system may be revoked by the board.

(9) In the event that a member becomes disabled and is eligible for benefits provided in this section, such member shall be given participating service credit for the entire period of such disability.

(10) Any benefits provided pursuant to this section and any participating service credit given pursuant to subsection (9) shall terminate upon the earliest date such member is eligible for retirement upon attainment of the normal retirement date as provided in K.S.A. 74-4964a, and amendments thereto.

(11) Any member who has received benefits under the provisions of this section for a period of five years or more immediately preceding retirement shall have such member's final average salary adjusted upon retirement by the actuarial salary assumption rates in existence during such period. Effective July 1, 1993, each member's current annual rate shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon retirement by an amount equal to the lesser of: ~~(1)~~ *(a)* The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus one percent; or ~~(2) four percent~~ *(b) 4%* per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(12) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor.

(13) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a, and amendments thereto; and persons appointed or employed on or after July 1, 1989.

(14) Any member who has been receiving benefits under the provisions of this section and who returns to employment with the same or different participating employer in the system shall no longer be deemed disabled under the provisions of this section.

(15) Upon the death of a member who has been receiving benefits under the provisions of this section, if no further benefits are payable, the excess, if any, of the member's accumulated contributions over the sum of all benefits paid shall be paid to the member's beneficiary.

Sec. 2. K.S.A. 74-4960a 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 2, 2021.

CHAPTER 16

SENATE BILL No. 118*

AN ACT concerning municipalities; relating to the dissolution of special districts and assumption of responsibilities by cities or counties.

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

Section 1. (a) It is the purpose of sections 1 through 3, and amendments thereto, to establish a procedure for any city or county to assume the powers, responsibilities and duties of any special district located within the city's corporate limits or the county's boundaries and to provide for the dissolution of the special district. No such dissolution shall take place until approved by a joint resolution adopted by the city or county and the special district as provided in section 2, and amendments thereto.

(b) For purposes of sections 1 through 3, and amendments thereto, "special district" includes airport authorities, cemetery districts, drainage districts, fire districts, industrial districts, library districts, port authorities, rural water districts, sewer districts and rural watershed districts.

Sec. 2. (a) The governing bodies of any special district and any city or county that have reached an agreement that the city or county shall assume all powers, responsibilities and duties of the special district shall pass a joint resolution stating their intent to bring about such dissolution and setting the time and place for a joint public hearing on this issue. The joint resolution shall be published once each week for two consecutive weeks in a newspaper of general circulation in the county or counties where the city or county and special district are located. Once the governing bodies have passed the joint resolution stating their intent to bring about the dissolution, the special district shall not issue new debt without first notifying the governing body of the city or county and having the new debt approved by the city or county governing body by resolution.

(b) Following the public hearing, the governing bodies of the special district and the city or county shall decide to proceed with or abandon the proposed dissolution. If both governing bodies agree to proceed with the dissolution and assumption of the powers and responsibilities of the special district by the city or county, as evidenced by formal action of each body, the city or county shall adopt an ordinance or county resolution dissolving the special district and assuming all powers, responsibilities and duties of the special district. The special district shall be deemed dissolved on the effective date of the ordinance or county resolution. A copy of the ordinance or county resolution shall be provided to the county clerk.

Sec. 3. (a) Upon the dissolution of the special district, the city or county shall acquire the property of the special district subject to any leases or

agreements duly and validly made by the district. The city or county shall be responsible for the payment or retirement of any special district debts or obligations. All property, funds and assets of the district shall be vested in the city or county.

(b) The city or county shall be the successor in every way to the powers, duties and functions of the special district. Every act performed in the exercise of such transferred powers, duties and functions by the city or county shall be deemed to have the same force and effect as if performed by the special district.

(c) Whenever the special district, or words of like effect, are referred to or designated by a contract or other document and such reference is in regard to any of the powers, duties and functions transferred to the city or county, such reference or designation shall be deemed to apply to the city or county as the context requires.

(d) The city or county shall have the legal custody of all records, memoranda, writings, entries, prints, representations, electronic data or combinations thereof of any act, transaction, occurrence or event of the special district.

(e) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or that could have been commenced, by or against the special district prior to its dissolution or by or against any officer of the district, prior to its dissolution in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of the district or of any such officer.

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

Approved April 2, 2021.

CHAPTER 17

SENATE BILL No. 64

AN ACT concerning postsecondary education; relating to the regulation of private and out-of-state educational institutions by the state board of regents; certificates of approval; student protections; rules and regulations; amending K.S.A. 74-32,162, 74-32,163, 74-32,164, 74-32,165, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,171, 74-32,172, 74-32,173, 74-32,175, 74-32,177, 74-32,178, 74-32,181, 74-32,182, 74-32,184, 74-32,194, 74-32,417 and 74-32,419 and repealing the existing sections.

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

New Section 1. (a) Any institution that is exempt from the private and out-of-state postsecondary educational institution act pursuant to K.S.A. 74-32,164(e), and amendments thereto, may apply to the state board for a certificate of approval under the provisions of such act if the institution is required to obtain a certificate of approval from the state board in order to demonstrate it is legally authorized to provide an educational program under 34 C.F.R. § 600.9, as in effect on July 1, 2021, for participation in programs authorized by the higher education act of 1965.

(b) Any institution issued a certificate of approval by the state board under this section shall be subject to the jurisdiction of the state board and the private and out-of-state postsecondary educational institution act.

(c) Any institution issued a certificate of approval under this section may return to exempt status under the private and out-of-state postsecondary educational institution act by not applying to renew the certificate of approval. Any institution that returns to exempt status, shall not be relieved of any liability for indemnification or any penalty for noncompliance with certification standards during the period of the institution's approved status.

New Sec. 2. (a) Each certificate of approval shall be issued to the owner of the institution applying for the certificate of approval. The certificate of approval shall not be transferable to a new owner. Whenever a change of ownership occurs as a result of death, a court order or operation of law, the new owner shall immediately apply for a new certificate of approval. If a change in ownership occurs in any other circumstance, the new owner shall apply for a new certificate of approval at least 60 days prior to the change of ownership.

(b) If there is a change in the ownership of an institution and, at the same time, there are changes in the institution's programs of instruction, location, entrance requirements or other changes, the institution shall submit an application for an initial certificate of approval and pay all applicable fees required for an initial application.

(c) The state board may adopt rules and regulations to ensure orderly transition of an institution to a new owner, including, but not limited to, requiring a new owner to satisfy the following requirements:

(1) Maintain and service all student records that were the responsibility of the prior owner;

(2) resolve all student complaints that were the responsibility of the prior owner and filed with the state board prior to the final approval for change of ownership; and

(3) honor the terms of student enrollment agreements, institutional scholarships and grants for all students enrolled and taking classes at the time of the change of ownership.

New Sec. 3. If a court of competent jurisdiction appoints a receiver for an institution holding a certificate of approval, the receiver shall provide the state board notice of the appointment and copies of all court orders and reports required from the receiver by the court. The court-appointed receiver shall comply with all provisions of the Kansas private and out-of-state postsecondary educational institution act.

New Sec. 4. (a) In addition to, or as an alternative to any penalty that may be imposed pursuant to this act, the state board, after proper notice and an opportunity to be heard, may assess a civil fine against an institution with a certificate of approval for a violation of this act or any rules and regulations adopted pursuant to this act. For the first violation, the amount of such fine shall be up to 1% of the institution's tuition revenue, but shall not be less than $125 and not more than $15,000. For any subsequent violation, the amount of such fine shall be up to 2% of the institution's tuition revenue, but shall not be less than $250 and not more than $20,000. On and after July 1, 2021, any such fines and administrative costs for collecting such fines may be assessed against the institution's surety bond.

(b) All moneys collected pursuant to 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 state general fund.

(c) Fines assessed under this section shall be considered administrative fines pursuant to 11 U.S.C. § 523.

Sec. 5. K.S.A. 74-32,162 is hereby amended to read as follows: 74-32,162. K.S.A. 74-32,163 through 74-32,184, and amendments thereto, *and sections 1 through 4, and amendments thereto,* shall be known and may be cited as the Kansas private and out-of-state postsecondary educational institution act.

Sec. 6. K.S.A. 74-32,163 is hereby amended to read as follows: 74-32,163. As used in the Kansas private and out-of-state postsecondary educational institution act:

(a) "Academic degree" means any associate, bachelor's, professional, master's, specialist or doctoral degree.

(b) "Accreditation" means an accreditation by an agency recognized by the United States department of education.

(c) "Branch campus" means any subsidiary place of business maintained within the state of Kansas by an institution at a site ~~which~~ *that* is separate from the site of the institution's principal place of business and ~~at which~~ *where* the institution offers a course or courses of instruction or study identical to the course or courses of instruction or study offered by the institution at its principal place of business.

(d) "Distance education" means ~~any course delivered primarily by use of correspondence study, audio, video or computer technologies~~ *instruction offered by any means in which the student and faculty member are in separate physical locations. "Distance education" includes, but is not limited to, online, interactive video and correspondence courses or programs*.

(e) "Out-of-state postsecondary educational institution" means a postsecondary educational institution, *public or private, for-profit or not-for-profit, that is* chartered, incorporated or otherwise organized under the laws of any jurisdiction other than the state of Kansas.

(f) "Institution" means an out-of-state or private postsecondary educational institution.

(g) "Institution employee" means any person, other than an owner, who directly or indirectly receives compensation from an institution for services rendered.

(h) "Owner of an institution" means:

(1) In the case of an institution owned by ~~an individual, that individual~~ *one or more individuals, those individuals*;

(2) in the case of an institution owned by a partnership, all full, silent and limited partners;

(3) in the case of an institution owned by a corporation, the corporation, its directors, officers and each shareholder owning shares of issued and outstanding stock aggregating at least 10% of the total of the issued and outstanding shares; and

(4) in the case of an institution owned by a limited liability company, the company, its managers and all its members.

(i) "Person" means an individual, firm, partnership, association ~~or~~, corporation, *receiver or trustee*.

(j) "Physical presence" means:

(1) ~~The employment in Kansas of a Kansas resident for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising or any other activity on behalf of the institution; or~~*Operating an instructional site in Kansas, including, but not limited to:*

(A) Establishing a physical location in Kansas where students receive instruction; or

(B) delivering a course or program that requires students participating in that course or program to physically meet at the same time and place in Kansas to receive instruction;

(2) ~~The delivery of, or the intent to deliver, instruction in Kansas with the assistance from any entity within the state in delivering the instruction including, but not limited to, a cable television company or a television broadcast station that carries instruction sponsored by the institution~~ *delivering any distance education course to any student who remains in Kansas while participating in such course;*

(3) maintaining an administrative office in Kansas for the purpose of fulfilling the administrative functions of delivering instruction, whether face-to-face or via distance education;

(4) maintaining a mailing address or phone exchange in Kansas;

(5) providing office space in Kansas to instructional or non-instructional staff; or

(6) providing student support services from a physical site operated by or on behalf of the institution in Kansas.

(k) "Private postsecondary educational institution" means an entity ~~which~~ *that*:

(1) Is a business enterprise, whether operated on a ~~profit~~ *for-profit* or not-for-profit basis, ~~which~~ *that* has a physical presence ~~within the state of~~ *in* Kansas ~~or which solicits business within the state of Kansas~~;

(2) offers a course or courses of instruction or study through classroom contact or by distance education, or both, for the purpose of training or preparing ~~persons~~ *individuals* for a field of endeavor in a business, trade, technical or industrial occupation, or ~~which~~ offers a course or courses leading to an academic degree; and

(3) is not specifically exempted by the provisions of this act.

(l) "Provisional certificate" means a certificate of approval that can be awarded to a degree-granting institution seeking to establish a physical presence in Kansas but is not yet accredited by a recognized accrediting organization. A "provisional certificate" constitutes authorization to operate in Kansas but only under certain conditions deemed necessary by the state board, including, but not limited to, reporting requirements or securing new or additional bonds.

(m) "Representative" means any person employed by an institution to act as an agent, solicitor or broker to ~~procure~~ *recruit* students or enrollees for the institution.

~~(m)~~*(n)* "State board" means the state board of regents or the *state* board's designee.

~~(n)~~*(o)* "Support" or "supported" means the primary source and means by which an institution derives revenue to perpetuate operation of the institution.

~~(o)~~*(p)* "University" means a postsecondary educational institution authorized to offer any degree, including ~~a~~ *an associate,* bachelor, graduate or professional degree.

~~(p)~~*(q)* "State educational institution" means any state educational institution as defined ~~by~~ *in* K.S.A. 76-711, and amendments thereto.

Sec. 7. K.S.A. 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~~*Postsecondary educational institutions established, operated and governed by this state or a political subdivision thereof*;

(b) an institution or training program ~~which~~ *that* 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) *except as provided in section 1, and amendments thereto,* an institution ~~which~~ *that* is otherwise *actively* regulated ~~and approved~~ *by another regulatory agency of Kansas* under any other law of ~~this state~~ *Kansas and has received an affirmative approval from such other agency to operate in Kansas*;

(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~~ *that* 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~~ *the state board* 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~~*education offered as an intensive review course solely designed to prepare students for graduate or professional school entrance examinations or professional licensure examinations, including, but not limited to, certified public accountancy examinations, examinations for a professional practice in psychology or bar examinations*;

~~(j)~~*(i)* ~~any~~*each of the following* postsecondary educational ~~institution~~ *institutions, all of* which ~~was~~ *were* 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, *or were previously exempted from this act by the legislature and that have approval to confer academic or honorary degrees in calendar year 2021:*

(1) Baker university, Baldwin City;
(2) Barclay college, Haviland;
(3) Benedictine college, Atchison;
(4) Bethany college, Lindsborg;
(5) Bethel college, North Newton;
(6) Central Baptist theological seminary, Kansas City;
(7) Central Christian college of Kansas, McPherson;
(8) Cleveland university-Kansas City, Overland Park;
(9) Donnelly college, Kansas City;
(10) Friends university, Wichita;
(11) Hesston college, Hesston;
(12) Kansas Christian college, Overland Park;
(13) Kansas Wesleyan university, Salina;
(14) Manhattan Christian college, Manhattan;
(15) McPherson college, McPherson;
(16) MidAmerica Nazarene university, Olathe;
(17) Newman university, Wichita;
(18) Ottawa university, Ottawa;
(19) Southwestern college, Winfield;
(20) Sterling college, Sterling;
(21) Tabor college, Hillsboro; and
(22) University of Saint Mary, Leavenworth; and

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

Sec. 8. K.S.A. 74-32,165 is hereby amended to read as follows: 74-32,165. (a) *(1)* The state board may adopt rules and regulations for the administration of this act.

(2) The state board shall adopt rules and regulations that impose requirements on any postsecondary institution that is closing. Such rules and regulations may include, but not be limited to, notice requirements,

teach-out plans, maintenance of academic records, refund requirements and transcript requests.

(b) *(1)* Specific standards shall be set for determining those institutions ~~which~~ *that* qualify for approval to confer or award academic degrees. Such standards shall be consistent with standards applicable to state educational institutions under the control and supervision of the state board.

(2) Each degree-granting institution shall make progress toward institutional accredited status with an accrediting agency for higher education recognized by the United States department of education. Once institutional accredited status is achieved by an institution, such degree-granting institution shall maintain accredited status. The provisions of this paragraph shall not apply to any private postsecondary educational institution that was awarded degree-granting authority prior to July 1, 2004, and maintains such authority on July 1, 2021.

(3) Additional standards may be set for those institutions that receive federal title IV student financial aid, including, but not limited to, requiring audited financial statements. The state board may grant exceptions to the additional standards by the adoption of rules and regulations.

(c) The state board shall maintain a list of institutions that have been issued a certificate of approval.

(d) Any state agency having information ~~which~~ *that* will enable the state board to exercise its powers and perform its duties in administering the provisions of this act shall furnish such information when requested by the state board.

Sec. 9. K.S.A. 74-32,167 is hereby amended to read as follows: 74-32,167. (a) No institution ~~may operate~~ *shall establish a physical presence* within ~~this state~~ *Kansas* without obtaining a certificate of approval from the state board as provided in this act. No institution shall confer or award any degree, certificate or diploma, whether academic or honorary, unless such institution has been approved for such purpose by the state board.

(b) Any contract entered into by or on behalf of any owner, employee or representative of an institution ~~which~~ *that* is subject to the provisions of this act~~,~~ but ~~which~~ has not obtained a certificate of approval, shall be unenforceable in any action.

Sec. 10. K.S.A. 74-32,168 is hereby amended to read as follows: 74-32,168. (a) Each institution shall apply to the state board for a certificate of approval. *At least 60 days before* an institution ~~which~~ opens ~~or maintains~~ a branch campus *in Kansas, such institution* shall notify the state board that it ~~has opened or is maintaining~~ *intends to open* a branch campus. Such branch campus shall be subject to review by the state board to determine whether it complies with the provisions of this act and the standards of the state board established pursuant thereto.

(b) An application for a certificate of approval shall be made on a form prepared and furnished by the state board and shall contain ~~such~~ *the* information ~~as may be~~ required by the state board.

(c) The state board may issue a certificate of approval upon determination that an institution meets the *requirements of this act and all* standards established by the state board *pursuant thereto*. The state board may issue a certificate of approval to any institution accredited by a regional or national accrediting agency recognized by the United States department of education without further evidence.

(d) (1) The state board may issue a provisional certificate of approval to a degree-granting institution that is not yet accredited by a recognized accrediting organization and that is seeking to establish a physical presence in Kansas. The provisional certificate may be renewed annually as long as the institution continues to progress toward successful attainment of full institutional accreditation within the regular accreditation cycle established by the recognized accrediting organization.

(2) The institution shall submit a plan for achieving accreditation. Such plan shall include identification of the recognized accrediting organization's eligibility requirements, minimum accreditation requirements, review processes and the institution's timeline for achieving full accreditation.

(3) The institution shall submit quarterly updates on the institution's progress toward full accreditation to the state board.

(4) The state board may adopt rules and regulations imposing additional surety bond requirements for the indemnification of any student for any loss suffered as a result of a failure to achieve full accreditation.

Sec. 11. K.S.A. 74-32,169 is hereby amended to read as follows: 74-32,169. The state board shall issue a certificate of approval to an institution when the state board is satisfied that the institution meets minimum standards established by ~~the state board by adoption of~~ *this act, and by* rules and regulations *adopted pursuant to this act* to ~~insure~~ *ensure* that:

(a) Courses, curriculum and instruction are of such quality, content and length as may reasonably and adequately ensure achievement of the stated objective for which the courses, curriculum or instruction are offered;

(b) institutions have adequate space, equipment, instructional material and personnel to provide education and training of good quality;

(c) educational and experience qualifications of directors, administrators and instructors are such as may reasonably ~~insure~~ *ensure* that students will receive instruction consistent with the objectives of their program of study;

(d) institutions maintain written records of the previous education and training of students and applicant students, and that training periods

are shortened when warranted by such previous education and training or by skill or achievement tests;

(e) *except as approved by the state board, no earned certificate or degree is given, awarded or granted solely on the basis of any of the following:*

(1) Payment of tuition or fees;

(2) credit earned at any other school;

(3) credit for life experience or other equivalency;

(4) testing out; or

(5) research and writing;

(f) no honorary degree is given, awarded or granted by any institution that does not give, award or grant an earned degree, and no fee or other charge is assessed for giving, awarding or granting an honorary degree;

(g) a copy of the course outline, schedule of tuition, fees and other charges, settlement policy, rules pertaining to absence, grading policy and rules of operation and conduct are furnished to students upon ~~entry into class~~ *enrollment*;

~~(f)~~*(h)* upon completion of training or instruction, students are given certificates, diplomas or degrees as appropriate by the institution indicating satisfactory completion of the program;

~~(g)~~*(i)* adequate records are kept to show attendance, satisfactory academic progress and enforcement of satisfactory standards relating to attendance, progress and conduct;

~~(h)~~*(j)* institutions comply with all local, state and federal regulations;

~~(i)~~*(k)* institutions are financially responsible and *maintain adequate financial records, which for institutions receiving federal title IV student financial aid, includes financial aid information and loan default rates;*

(l) institutions are capable of fulfilling commitments for instruction;

~~(j)~~*(m)* institutions do not utilize erroneous or misleading advertising, either by actual statement, omission or intimation;

~~(k)~~*(n)* institutions have and maintain a policy, ~~which shall be~~ subject to state board approval, for the refund of unused portions of tuition, fees and other charges if a student enrolled by the institution fails to begin a course ~~or~~, withdraws or is discontinued ~~therefrom~~ *from such course* at any time prior to completion. Such policies shall take into account those costs of the institution that are not diminished by the failure of the student to enter or complete a course of instruction; ~~and~~

~~(l)~~*(o)* institutions adopt, publish and adhere to a procedure for handling student complaints. Institutions shall post information so that students will be aware of the complaint process available to them. The information shall be posted in locations that are used or seen by all students on a regular basis such as the institution's website, enrollment agreement, ~~catalogue~~ *catalog* or other media*;*

(p) in accordance with applicable state and federal data protection laws, institutions take appropriate measures to protect students' personally identifiable information and promptly address any breach or unauthorized disclosure of any student's personally identifiable information;

(q) institutions publish the following information as required by the state board of regents:

(1) Graduation rates;

(2) placement rates and other information indicating actual employment and earnings in relevant occupations after successful completion of offered programs; and

(3) loan default rates.

Sec. 12. K.S.A. 74-32,170 is hereby amended to read as follows: 74-32,170. (a) After ~~review of~~ *the state board reviews* an application for a certificate of approval and ~~if the state board~~ determines that the institution meets the requirements of this act and the standards established by the state board, the state board shall issue a certificate of approval to the institution. Certificates of approval shall be in a form specified by the state board. Certificates of approval shall state:

(1) The date of issuance and term of approval;

(2) the correct name and address of the institution;

(3) the signature of the chief executive officer of the state board or a person designated by the state board to administer the provisions of this act; and

(4) any other information required by the state board.

(b) Certificates of approval shall be valid for a term of one year.

(c) ~~Each certificate of approval shall be issued to the owner of an institution and shall not be transferable. If a change in ownership of an institution occurs, the new owner shall apply within 60 days prior to the change in ownership for a new certificate of approval. The state board may waive the sixty-day requirement upon determination that an emergency exists and that the waiver and change in ownership would be in the best interests of students currently enrolled in the institution.~~ Whenever a change in ownership occurs ~~as a result of death, court order or operation of law~~, the new owner shall apply ~~immediately~~ for a new certificate of approval *pursuant to section 2, and amendments thereto*.

(d) At least 120 days prior to expiration of a certificate of approval, the state board shall ~~forward to~~ *notify* the institution ~~a renewal application form~~ *that it is required to renew its certificate of approval in order to continue maintaining a physical presence in Kansas after the expiration date of its current certificate of approval*. Any institution desiring to renew its certificate of approval, shall complete and submit the application for renewal to the state board at least 60 days prior to the expiration of the institution's certificate of approval. *An application for renewal shall*

be deemed late if the institution applying for renewal fails to submit a completed application for renewal at least 60 days prior to the expiration of the institution's certificate of approval. A completed application for renewal includes all documentation, information and fees required by the state board to complete the renewal process. When an application for renewal is deemed late, the state board may require the institution to begin the closure procedure.

(e) Unless exempt from the provisions of this act pursuant to K.S.A. 74-32,164, and amendments thereto, an institution shall not accept payments for tuition, fees or other enrollment charges until the institution receives a certificate of approval from the state board.

(f) Any institution ~~which~~ *that* does not plan to renew a certificate of approval shall notify the state board of its intent not to renew at least 60 days prior to the expiration date of the certificate of approval.

(g) Any institution that is closing, either voluntarily or involuntarily, shall be subject to closure requirements until the state board notifies the institution that all closure requirements are satisfied.

Sec. 13. K.S.A. 74-32,171 is hereby amended to read as follows: 74-32,171. (a) After ~~review of~~ *the state board reviews* an application for a certificate of approval and ~~if the state board~~ determines that the applicant does not meet the requirements of this act, the state board shall refuse to issue the certificate *of approval* and set forth the reasons for the determination.

(b) If an applicant, upon written notification of refusal by the state board to issue a certificate of approval, desires to contest such refusal, the applicant shall notify the state board in writing~~,~~ *of the desire to be heard* within 15 days after the date of service of such notice of refusal~~, of the desire to be heard. Such~~. *Any* applicant *requesting a hearing pursuant to this section* shall be afforded a hearing in accordance with the provisions of the Kansas administrative procedure act. Upon conclusion of any such hearing, the state board shall issue a certificate of approval or a final refusal to do so.

(c) If an applicant, upon service of notice of refusal by the state board to issue a certificate of approval, fails to request a hearing within 15 days after the date of service of such notice of refusal, the state board's refusal shall be *a* final *agency action*.

Sec. 14. K.S.A. 74-32,172 is hereby amended to read as follows: 74-32,172. (a) The state board may revoke a certificate of approval or impose reasonable conditions upon the continued approval represented by a certificate. ~~Prior to revocation or imposition of conditions upon a certificate of approval, the state board shall give written notice to the holder of the certificate of the impending action setting forth the grounds for the action contemplated to be taken and affording a hearing on a date within 30~~

~~days after the date of such notice. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.~~

(b) A certificate of approval may be revoked ~~or conditioned~~ if the state board has reasonable cause to believe that the institution is in violation of any provision of this act or of any rules and regulations adopted under this act. *An institution that has had a certificate of approval revoked may not reapply for a certificate of approval for 12 months after the final order of revocation, and then only if the institution establishes to the satisfaction of the state board that it has cured all deficiencies. Prior to revocation, the state board shall give written notice to the holder of the certificate of approval of the impending action, setting forth the grounds for the action contemplated to be taken and affording the institution holding the certificate of approval an opportunity to request a hearing. If a hearing is requested, such hearing shall be conducted within 30 days after the date the notice was sent. Hearings conducted pursuant to this subsection shall be conducted in accordance with the Kansas administrative procedure act.*

(c) A certificate of approval may be conditioned at any time if the state board has reasonable cause to believe additional information is necessary, a violation of this act occurred or it is in the students' best interest for the institution to continue operations during a change in ownership or while an institution is completing closure requirements. A certificate of approval that has been conditioned constitutes authorization to operate but with conditions, including, but not limited to, reporting requirements, performance standard requirements, securing new or additional bonds, limiting the period of time to operate during change of ownership or for the purpose of teaching out students. The state board may require any institution with a certificate of approval that has been conditioned to suspend or cease any part of institutional activity, including, but not limited to, enrolling students, advertising or delivering certain classes or programs. Such conditions shall remain in effect until the circumstances precipitating the conditional status are corrected, and the state board has completed all reviews relating to the institution's conditional status. The state board's decision to impose reasonable conditions shall be a final agency action.

Sec. 15. K.S.A. 74-32,173 is hereby amended to read as follows: 74-32,173. Any action of the state board pursuant to K.S.A. 74-32,170, 74-32,171 or 74-32,172, and amendments thereto, *or section 4, and amendments thereto,* is subject to review in accordance with the Kansas judicial review act. If it appears to the state board on the basis of its own inquiries or investigations or as a result of a complaint that any provision of this act has been or may be violated, the state board may request the attorney general to institute an action enjoining such violation or for an order directing compliance with the provisions of this act.

Sec. 16. K.S.A. 74-32,175 is hereby amended to read as follows: 74-32,175. (a) Before a certificate of approval is issued under this act, a bond in the penal sum of $20,000 shall be provided by the institution for the period for which the certificate of approval is to be issued. The obligation of the bond shall be that the institution and its officers, agents, representatives and other employees shall be bound~~,~~ *to:*

(1) Comply with the provisions of this act and the rules and regulations and standards established by the state board pursuant to this act, including, but not limited to, protecting students' personally identifiable information; and

(2) upon closure of the institution*, or if the institution is no longer seeking state board approval*~~,~~ ~~to~~ deliver or make available to the state board the records of all students who are in attendance at the institution at the time of closure or who have attended the institution at any time prior to closure.

(b) The bond shall be a corporate surety bond issued by a company authorized to do business in this state *on a form required by the state board*. The bond shall be filed with the state board. If the institution ceases operation, the state board may recover against the bond all necessary costs for the acquisition, permanent filing and maintenance of student records of the institution.

~~(b) In lieu of the corporate surety bond required under subsection (a), an institution may provide any similar certificate or evidence of indebtedness or insurance as may be acceptable to the state board if such certificate or evidence of indebtedness or insurance is conditioned that the requirements of subsection (a) shall be met.~~

Sec. 17. K.S.A. 74-32,177 is hereby amended to read as follows: 74-32,177. (a) No person shall:

(1) Operate an institution without a certificate of approval;

(2) ~~solicit prospective students without being registered as required by this act;~~

~~(3)~~ accept contracts or enrollment applications from a representative who is not registered as required by this act;

(3) use fraud or misrepresentation to obtain a certificate of approval;

(4) use fraud or misrepresentation in advertising or in procuring enrollment of a student;

(5) use the term "accredited" in the name or advertisement of the institution unless such institution is accredited as defined in this act~~;~~ ~~and~~ *or*

(6) use the term "university" in the name or advertisement of the institution unless such institution is a university as defined by this act.

(b) Violation of any provision of subsection (a) or ~~of~~ any other provision of this act is a class C nonperson misdemeanor.

(c) The state board may revoke or condition a certificate of approval for any violation of subsection (a) or any other provision of this act.

Sec. 18. K.S.A. 74-32,178 is hereby amended to read as follows: 74-32,178. Upon application of the attorney general or a county or district attorney, a district court shall have jurisdiction to enjoin any violation of this act and to enjoin persons from engaging in business in this state. In any action brought to enforce the provisions of this act, if the court finds that a person willfully used any deceptive or misleading act or practice or operates an institution without first obtaining and maintaining a certificate of approval, the attorney general or a county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this act, a civil penalty not exceeding ~~$5,000~~ *$20,000* for each violation. For purposes of this section, an intentional violation occurs when the person committing the violation knew or should have known that the conduct of the person consisted of acts or practices ~~which~~ *that* were deceptive or misleading including the operation of an institution without first obtaining a certificate of approval from the state board. Any violation of this act or any rule or regulation adopted pursuant thereto is a deceptive act or practice under the Kansas consumer protection act. Any remedy provided by this act shall be in addition to any other remedy provided by the Kansas consumer protection act.

Sec. 19. K.S.A. 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~~ *in* 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	Up to 2% of gross tuition, but not less than $500, nor more than $25,000
Degree granting institution	Up to 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
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..... Up to 2% of gross tuition, but not less than $500, nor more than $25,000
Degree granting institution..... Up to 2% of gross tuition, but not less than $1,000, nor more than $25,000
Representative fees:
Initial registration.....$200
Late submission of renewal of application fee.....$500
Student transcript copy fee.....$10
Returned check fee.....$50

(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..... Up to 3% of gross tuition, but not less than $1,000, nor more than $25,000
Degree granting institution..... Up to 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
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..... Up to 3% of gross tuition, but not less than $1,000, nor more than $25,000

Degree granting institution ..... Up to 3% of gross tuition, but not less than $2,000, nor more than $25,000

Representative fees:

Initial registration $350
Late submission of renewal of application fee $500
Student transcript copy fee $10
Returned check fee.....$50

(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 *annually* determine ~~on or before June 1 of each year~~ the amount of revenue ~~which~~ *that* 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)~~*(d)* Fees may be charged to conduct on-site reviews for degree granting and non-degree granting institutions or to review curriculum in content areas where the state board does not have expertise.

Sec. 20. K.S.A. 74-32,182 is hereby amended to read as follows: 74-32,182. (a) The state board shall remit all moneys received pursuant to the provisions of this act to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount remitted in the state treasury and, *except as otherwise provided in this act,* shall credit ~~the same~~ *such remittance* to the private and out-of-state postsecondary educational institution fee fund to be used for the purpose of administering this act. All expenditures from such fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board or the board's designee.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the private and out-of-state postsecondary educational institution fee fund interest earnings based on:

(1) The average daily balance of moneys in such fee fund for the preceding month; and

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

Sec. 21. K.S.A. 74-32,184 is hereby amended to read as follows: 74-32,184. Within the limits of appropriations therefore, the state board shall develop and maintain a statewide data collection system to collect and analyze private and out-of-state postsecondary educational information, including, but not limited to, student, course, financial aid and program demographics that will assist the *state* board in improving the quality of private and out-of-state postsecondary education. *Failure of an institution to submit complete and substantially accurate data on a timely basis when requested by the state board shall be a violation of this act.*

Sec. 22. K.S.A. 74-32,194 is hereby amended to read as follows: 74-32,194. (a) As used in this section:

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

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

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

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

(5) "out-of-state postsecondary educational institution" ~~has the meaning ascribed thereto~~ *means the same as defined* in K.S.A. 74-32,163, and amendments thereto;

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

(7) "private postsecondary educational institution" ~~has the meaning ascribed thereto~~ *means the same as defined* in K.S.A. 74-32,163, and amendments thereto;

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

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

(10) "state board" means the state board of regents;

(11) "state educational institution" means ~~any state educational institution,~~ *the same* as defined in K.S.A. 76-711, and amendments thereto; and

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

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

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

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

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

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

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

(3) provides information from a physical site located ~~within the state~~ *in Kansas*;

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

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

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

(e) The state board may terminate membership or participation of any postsecondary educational institution with a physical presence in

Kansas that is participating in the state authorization reciprocity agreement if the state board has reasonable cause to believe that the postsecondary educational institution is in violation of any provision of this section *or the agreement*.

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

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

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

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

Sec. 23. K.S.A. 74-32,417 is hereby amended to read as follows: 74-32,417. As used in this act:

(a) "Career technical education program" means a program of vocational or technical training or retraining ~~which~~ *that* is operated at the postsecondary level and is designed to prepare persons for gainful employment.

(b) "Career technical education institution" means any technical college, community college, municipal university, or any state educational institution ~~which~~ *that* operates one or more career technical education programs.

(c) "Community college," "institute of technology," "municipal university," "state educational institution," "technical college," and "state

board" ~~have the meanings respectively ascribed thereto~~ *mean the same as such terms are defined* in K.S.A. 74-32,407, and amendments thereto.

(d) ~~"Private postsecondary educational institution" and "out-of-state postsecondary educational institution" have the meanings ascribed thereto in K.S.A. 74-32,163, and amendments thereto.~~

~~(e)~~ "Program" means the Kansas training information program established by this act.

Sec. 24. K.S.A. 74-32,419 is hereby amended to read as follows: 74-32,419. (a) Every career technical education institution ~~and private or out-of-state postsecondary educational institution which~~ *that* desires to participate in the program~~,~~ shall:

(1) On or before October 1 in each fiscal year, transmit *the following information* to the state board*:*

(A) The social security number of each person who completed a career technical education program operated by the career technical education institution or private or out-of-state postsecondary educational institution during the prior fiscal year~~,~~*;* and

(B) such other information as the state board may require in order to conduct follow-up surveys and studies ~~which~~ *that* will assist in the evaluation of career technical education programs; and

(2) prior to or at the time of enrollment at the career technical education institution ~~or private or out-of-state postsecondary educational institution~~, make available to persons enrolling in a vocational education program the most current report published and distributed by the state board.

(b) Information transmitted to the state board pursuant to subsection (a)(1) shall be confidential and shall not be disclosed or made public in such a manner that any individual person can be identified thereby.

Sec. 25. K.S.A. 74-32,162, 74-32,163, 74-32,164, 74-32,165, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,171, 74-32,172, 74-32,173, 74-32,175, 74-32,177, 74-32,178, 74-32,181, 74-32,182, 74-32,184, 74-32,194, 74-32,417 and 74-32,419 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 2, 2021.

CHAPTER 18

HOUSE BILL No. 2014

AN ACT concerning motor vehicles; relating to the registration and regulation of military surplus vehicles; amending K.S.A. 8-194, 8-195 and 8-196 and K.S.A. 2020 Supp. 8-1486 and repealing the existing sections.

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

New Section 1. "Military surplus vehicle" means a vehicle with three axles or fewer that meets the legal size and weight limits set forth in K.S.A. 8-1902(a), 8-1904(a) and (b), 8-1908 and 8-1909, and amendments thereto, is less than 35 years old and was manufactured for use in either: (a) The United States military forces; or (b) any country that was a member of the North Atlantic Treaty Organization at the time the vehicle was manufactured. Such vehicle shall have been subsequently authorized for sale to civilians, except that a "military surplus vehicle" does not include a tracked vehicle.

Sec. 2. K.S.A. 8-194 is hereby amended to read as follows: 8-194. As used in this act: (a) "Collector" means the owner of one or more special interest vehicles ~~or~~, street rod vehicles *or military surplus vehicles* who acquires, collects, purchases, trades or disposes of such vehicles or parts therefor for such person's own use in order to restore, preserve and maintain such vehicle or vehicles for historic interest.

(b) "Parts car" means a motor vehicle generally in nonoperable condition ~~which~~ *that* is owned by a collector to furnish parts ~~which~~ *that* will enable the collector to restore, preserve and maintain a special interest vehicle, street rod vehicle ~~or~~, antique vehicle *or military surplus vehicle*.

(c) "Special interest vehicle" means a motor vehicle ~~which~~ *that* is more than 20 years of age and ~~which~~ *that* has not been altered or modified from the original manufacturer's specifications except to assure normal running operation or to meet specific safety inspection requirements on original equipment, or both. "Special interest vehicle" shall also mean and include a motor vehicle manufactured before 1949 that when altered or modified is referred to as a "street rod."

(d) "Military surplus vehicle" means the same as defined in section 1, and amendments thereto.

Sec. 3. K.S.A. 8-195 is hereby amended to read as follows: 8-195. (a) Any person who is the owner of a special interest vehicle ~~or~~, street rod vehicle *or military surplus vehicle* at the time of making application for registration or transfer of title of the vehicle may, upon application, register the same as a special interest vehicle ~~or~~, street rod vehicle *or military surplus vehicle* upon payment of an annual fee of $26 and be

furnished each year upon the payment of such fee license plates of a distinctive design in lieu of the usual license plates ~~which~~ *that* shall show, in addition to the identification number, that the vehicle is a special interest vehicle or that the vehicle is a special interest vehicle and it meets the qualifications of a street rod *vehicle or military surplus vehicle*, as the case may be, owned by a Kansas collector. The registration shall be valid for one year and may be renewed by payment of such annual fee. Special interest vehicles including street rod vehicles *and military surplus vehicles* may be used as are other vehicles of the same type, except that special interest vehicles including street rod vehicles *and military surplus vehicles* may not transport passengers for hire~~, nor~~. *Special interest vehicles including street rod vehicles shall not* haul material weighing more than 500 pounds.

(b) Each collector applying for special interest vehicle ~~or~~, street rod vehicle *or military surplus vehicle* license plates will be issued a collector's identification number ~~which~~ *that* will appear on each license plate. Second and all subsequent registrations under this section by the same collector will bear the same collector's identification number followed by a suffix letter for vehicle identification.

(c) A collector must own and have registered one or more vehicles with regular license plates ~~which~~ *that* are used for regular transportation.

(d) Special interest license plates issued to military surplus vehicles shall display a decal on such plates identifying the vehicle as a military surplus vehicle.

(e) A military surplus vehicle shall not be registered until an inspection has been completed in accordance with K.S.A. 2020 Supp. 8-116a, and amendments thereto.

Sec. 4. K.S.A. 8-196 is hereby amended to read as follows: 8-196. In addition to the fee in K.S.A. 8-195, ~~as amended~~ *and amendments thereto*, there shall be an original ~~(~~, first time only~~)~~, processing fee of $20 to defray the cost of issuing the original collector's special interest vehicle license plates or special interest vehicles with street rod *vehicle or military surplus vehicle* designation license plates and to ensure that each collector will be issued only one collector's identification number.

Sec. 5. K.S.A. 2020 Supp. 8-1486 is hereby amended to read as follows: 8-1486. K.S.A. 8-1402a, 8-1414a, 8-1439c, 8-1458a, 8-1459a, 8-1475a, 8-1487, 8-1488, 8-1489 and 8-1490, and amendments thereto, and K.S.A. 2020 Supp. 8-1491, 8-1492, 8-1493, 8-1494, 8-1495, 8-1496, 8-1497 ~~and~~, 8-1498 *and section 1*, and amendments thereto, shall be a part of~~,~~ and supplemental to~~,~~ the uniform act regulating traffic on highways.

Sec. 6. K.S.A. 8-194, 8-195 and 8-196 and K.S.A. 2020 Supp. 8-1486 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 5, 2021.

CHAPTER 19

House Substitute for SENATE BILL No. 63*

AN ACT concerning education; relating to student attendance; enacting the back to school act; requiring school districts to provide for a full-time, in person attendance option in school year 2020-2021.

WHEREAS, The provisions of this act shall be known as the back to school act.

Now, therefore:

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

Section 1. Notwithstanding any other provision of law to the contrary, on and after March 31, 2021, for school year 2020-2021, every school district in this state shall provide a full-time, in person attendance option for every student enrolled in kindergarten or grades one through 12 in such school district.

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

Approved April 5, 2021.

Published in the *Kansas Register* April 15, 2021.

CHAPTER 20

House Substitute for SENATE BILL No. 99
(Amends Chapter 6)

AN ACT concerning motor vehicles; relating to the vehicle dealers and manufacturers licensing act; increasing the bonding requirement for vehicle dealers; providing for display show licenses; allowing for new vehicle dealers and manufacturers to participate in display shows; amending K.S.A. 2020 Supp. 8-2404 and 8-2435 and repealing the existing sections; also repealing K.S.A. 2020 Supp. 8-2435, as amended by section 1 of 2021 Senate Bill No. 33.

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

Section 1. On and after January 1, 2022, K.S.A. 2020 Supp. 8-2404 is hereby amended to read as follows: 8-2404. (a) No vehicle dealer shall engage in business in this state without obtaining a license as required by this act. Any vehicle dealer holding a valid license and acting as a vehicle salesperson shall not be required to secure a salesperson's license.

(b) No first stage manufacturer, second stage manufacturer, factory branch, factory representative, distributor branch or distributor representative shall engage in business in this state without a license as required by this act, regardless of whether or not an office or other place of business is maintained in this state for the purpose of conducting such business.

(c) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The director may require in the application, or otherwise, information relating to the applicant's solvency, financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business, all of which may be considered by the director in determining the fitness of the applicant to engage in business as set forth in this section. The director may require the applicant for licensing to appear at such time and place as may be designated by the director for examination to enable the director to determine the accuracy of the facts contained in the written application, either for initial licensure or renewal thereof. Every application under this section shall be verified by the applicant.

(d) All licenses shall be granted or refused within 30 days after application is received by the director. All licenses, except licenses issued to salespersons, shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted, except that where a complaint respecting the cancellation, termination or nonrenewal of a sales agreement is in the process of being heard, no replacement application shall be considered until a final order is issued by the director.

Applications for renewals, except for renewals of licenses issued to salespersons, received by the director after February 15 shall be considered as new applications. All salespersons' licenses shall expire, unless previously suspended or revoked, on June 30 of the calendar year for which they are granted. Applications for renewals of salespersons' licenses received by the director after July 15 shall be considered as new applications. All licenses for supplemental places of business existing or issued on or after January 1, 1994, shall expire on December 31 of the calendar year for which they are granted, unless previously suspended or revoked.

(e) License fees for each calendar year, or any part thereof shall be as follows:

(1) For new vehicle dealers, $75;
(2) for distributors, $75;
(3) for wholesalers, $75;
(4) for distributor branches, $75;
(5) for used vehicle dealers, $75;
(6) for first and second stage manufacturers, $225 plus $75 for each factory branch in this state;
(7) for factory representatives, $50;
(8) for distributor representatives, $50;
(9) for brokers, $75;
(10) for lending agencies, $50;
(11) for first and second stage converters, $50;
(12) for salvage vehicle dealers, $75;
(13) for auction motor vehicle dealers, $75;
(14) for vehicle salesperson, $25;
(15) for insurance companies, $75;
(16) for vehicle crusher, $75;
(17) for vehicle recycler, $75;
(18) for scrap metal recycler, $75;
(19) for rebuilders, $75; and
(20) for salvage vehicle pool, $75.

Any new vehicle dealer who is also licensed as a used vehicle dealer shall be required to pay only one $75 fee for both licenses.

(f) Dealers may establish approved supplemental places of business within the same county of their licensure or, with respect to new vehicle dealers, within their area of responsibility as defined in their franchise agreement. Those doing so shall be required to pay a supplemental license fee of $35. In addition to any other requirements, new vehicle dealers seeking to establish supplemental places of business shall also comply with the provisions of K.S.A. 8-2430 through 8-2432, and amendments thereto. A new vehicle dealer establishing a supplemental place of business in a county other than such dealer's county of licensure but within

such dealer's area of responsibility as defined in such dealer's franchise agreement shall be licensed only to do business as a new motor vehicle dealer in new motor vehicles at such supplemental place of business. Original inspections by the division of a proposed established place of business shall be made at no charge except that a $30 fee shall be charged by the division for each additional inspection the division must make of such premises in order to approve the same.

(g) The license of all persons licensed under the provisions of this act shall state the address of the established place of business, office, branch or supplemental place of business and must be conspicuously displayed therein. The director shall endorse a change of address on a license without charge if: (1) The change of address of an established place of business, office, branch or supplemental place of business is within the same county; or (2) the change of address of a supplemental place of business, with respect to a new vehicle dealer, is within such dealer's area of responsibility as defined in their franchise agreement. A change of address of the established place of business, office or branch to a different county shall require a new license and payment of the required fees but such new license and fees shall not be required for a change of address of a supplemental place of business, with respect to a new vehicle dealer, to a different county but within the dealer's area of responsibility as defined in their franchise agreement.

(h) Every salesperson, factory representative or distributor representative shall carry on their person a certification that the person holds a valid state license. The certification shall name the person's employer and shall be displayed upon request. An original copy of the state license for a vehicle salesperson shall be mailed or otherwise delivered by the division to the employer of the salesperson for public display in the employer's established place of business. When a salesperson ceases to be employed as such, the former employer shall mail or otherwise return the original copy of the employee's state license to the division. A salesperson, factory representative or distributor representative who terminates employment with one employer may file an application with the director to transfer the person's state license in the name of another employer. The application shall be accompanied by a $12 transfer fee. A salesperson, factory representative or distributor representative who terminates employment, and does not transfer the state license, shall mail or otherwise return the certification that the person holds a valid state license to the division.

(i) If the director has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this act, the director may require the applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as the director approves, but such amount shall be not less than $5,000 nor more

than $20,000, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by a retail or wholesale buyer or seller of a vehicle by reason of any act by the licensee constituting grounds for suspension or revocation of the license. Every applicant or licensee who is or applies to be a used vehicle dealer or a new vehicle dealer shall furnish and maintain a bond in such form, amount and with such sureties as the director approves, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by a retail or wholesale buyer or seller of a vehicle by reason of any act by the licensee in violation of any act which constitutes grounds for suspension or revocation of the license. The amount of such bond shall be ~~$30,000~~ *$50,000*. To comply with this subsection, every bond shall be a corporate surety bond issued by a company authorized to do business in the state of Kansas and shall be executed in the name of the state of Kansas for the benefit of any aggrieved retail or wholesale buyer or seller of a vehicle. 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 the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Bonding requirements shall not apply to first or second stage manufacturers, factory branches, factory representatives or salespersons. Upon determination by the director that a judgment from a Kansas court of competent jurisdiction is a final judgment and that the judgment resulted from an act in violation of this act or would constitute grounds for suspension, revocation, refusal to renew a license or administrative fine pursuant to K.S.A. 8-2411, and amendments thereto, the proceeds of the bond on deposit or in lieu of bond provided by subsection (j), shall be paid. The determination by the director under this subsection is hereby specifically exempted from the Kansas administrative procedure act and the Kansas judicial review act. Any proceeding to enforce payment against a surety following a determination by the director shall be prosecuted by the judgment creditor named in the final judgment sought to be enforced. Upon a finding by the court in such enforcement proceeding that a surety has wrongfully failed or refused to pay, the court shall award reasonable attorney fees to the judgment creditor.

(j) An applicant or licensee may elect to satisfy the bonding requirements of subsection (i) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas. The amount of cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of de-

posit of any bank organized under the laws of the United States or of the state of Kansas deposited with the state treasurer shall be in an amount of ~~no~~ *not* less than ~~$30,000~~ *$50,000*. When negotiable bonds or negotiable certificates of deposit have been deposited with the state treasurer to satisfy the bonding requirements of subsection (i), such negotiable bonds or negotiable certificates of deposit shall remain on deposit with the state treasurer for a period of not less than two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to termination of the licensee's license. In the event a licensee elects to deposit a surety bond in lieu of the negotiable bonds or negotiable certificates of deposit previously deposited with the state treasurer, the state treasurer shall not release the negotiable bonds or negotiable certificates of deposits until at least two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to the date of the deposit of the surety bond. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

(k) No license shall be issued by the director to any person to act as a new or used dealer, wholesaler, broker, salvage vehicle dealer, auction motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler, salvage vehicle pool, second stage manufacturer, first stage converter, second stage converter or distributor unless the applicant for the vehicle dealer's license maintains an established place of business which has been inspected and approved by the division. First stage manufacturers, factory branches, factory representatives, distributor branches, distributor representatives and lending agencies are not required to maintain an established place of business to be issued a license.

(l) Dealers required under the provisions of this act to maintain an established place of business shall own or have leased and use sufficient lot space to display vehicles at least equal in number to the number of dealer license plates the dealer has had assigned.

(m) A sign with durable lettering at least 10 inches in height and easily visible from the street identifying the established place of business shall be displayed by every vehicle dealer. Notwithstanding the other provisions of this subsection, the height of lettering of the required sign may be less than 10 inches as necessary to comply with local zoning regulations.

(n) If the established or supplemental place of business or lot is zoned, approval must be secured from the proper zoning authority and proof that the use complies with the applicable zoning law, ordinance or resolution must be furnished to the director by the applicant for licensing.

(o) An established or supplemental place of business, otherwise meeting the requirements of this act may be used by a dealer to conduct more than one business, provided that suitable space and facilities exist therein to properly conduct the business of a vehicle dealer.

(p) If a supplemental place of business is not operated on a continuous, year-round basis, the dealer shall give the department 15 days' notice as to the dates on which the dealer will be engaged in business at the supplemental place of business.

(q) Any vehicle dealer selling, exchanging or transferring or causing to be sold, exchanged or transferred new vehicles in this state must satisfactorily demonstrate to the director that such vehicle dealer has a bona fide franchise agreement with the first or second stage manufacturer or distributor of the vehicle, to sell, exchange or transfer the same or to cause to be sold, exchanged or transferred.

No person may engage in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for the make or makes of new motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, includes: (1) Displaying new motor vehicles on a lot or showroom; (2) advertising new motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting or referring buyers for new motor vehicles.

(r) No person may engage in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for used motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, includes: (1) Displaying used motor vehicles on a lot or showroom; (2) advertising used motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting buyers for used motor vehicles.

(s) The director of vehicles shall publish a suitable Kansas vehicle salesperson's manual. Before a vehicle salesperson's license is issued, the applicant for an original license shall be required to pass a written examination based upon information in the manual. Thereafter, any sales-

person licensee may be required to be re-tested at the discretion of the director based upon terms and conditions established by the director.

(t) No new license shall be issued nor any license renewed to any person to act as a salvage vehicle dealer until the division has received evidence of compliance with the junkyard and salvage control act as set forth in K.S.A. 68-2201 et seq., and amendments thereto.

(u) On and after the effective date of this act, no person shall act as a broker in the advertising, buying or selling of any new or used motor vehicle. Nothing herein shall be construed to prohibit a person duly licensed under the requirements of this act from acting as a broker in buying or selling a recreational vehicle as defined by K.S.A. 75-1212(f), and amendments thereto, when the recreational vehicle subject to sale or purchase is a used recreational vehicle ~~which~~ *that* has been previously titled and independently owned by another person for a period of 45 days or more, or is a new or used recreational vehicle repossessed by a creditor holding security in such vehicle.

(v) Nothing ~~herein~~ *in this section* shall be construed to prohibit a person not otherwise required to be licensed under this act from selling such person's own vehicle as an isolated and occasional sale.

Sec. 2. K.S.A. 2020 Supp. 8-2435 is hereby amended to read as follows: 8-2435. (a) *(1)* Upon proper application, on a form approved by the division of vehicles, the director of vehicles may authorize the display of new motor vehicles *of a new vehicle dealer* at a location other than the established or supplemental place of business of a motor vehicle dealer provided that the requirements of ~~subsections (i) and (n) of~~ K.S.A. 8-2404~~, and amendments thereto,~~*(i) and (n)* and ~~K.S.A.~~ 8-2405, and amendments thereto, are satisfied by the motor vehicle dealer. A fee in the amount of $15 shall be paid by an applicant for each application. No sales transactions*, leases or test drives* may occur at such display locations.

(2) (A) Upon proper application on a form approved by the division of vehicles, the director of vehicles may issue a license known as a temporary display show license to a sponsor of such display show that is responsible for organizing and operating the display show under such terms and conditions as the director may reasonably require. A fee in the amount of $100 shall be paid by the sponsor applying for each application and each participant displaying vehicles shall pay a fee of $35 to the sponsor. The sponsor shall remit all fees to the director. New vehicle dealers, first stage manufacturers, second stage manufacturers, first stage converters, second stage converters and distributors may attend and participate in the display of new motor vehicles under this subparagraph and may display vehicles without regard to geographical territorial assignment or relevant market area, as defined in K.S.A. 8-2430, and amendments thereto. New motor vehicle dealers participating in a display show may do so without the approval of any first stage manufacturer, second stage manufacturer, first stage converter, second stage

converter or distributor who may not bar or treat such new vehicle dealer adversely for participating in a display show. No sales or lease transactions may occur at a display show, but test drives for purposes other than the sale or lease of a vehicle may be made to demonstrate the vehicle and its features.

(B) For purposes of this paragraph, "display show" means a display of new motor vehicles that does not fall under the description set forth in subsection (a)(1) or K.S.A. 8-2444(a), and amendments thereto.

(b) Authorization granted by the director under ~~this section~~ *subsection (a)(1)* shall be granted only to motor vehicle dealers licensed by the director and to no other person, natural or otherwise. The authorization shall be for a period not to exceed 15 consecutive days unless otherwise authorized by the director of vehicles. *A sponsor under subsection (a)(2) is not required to be a licensed new vehicle dealer, but participating new vehicle dealers must be licensed motor vehicle dealers or the participant must be a first stage manufacturer, second stage manufacturer, first stage converter, second stage converter or distributor for such manufacturer or converter. Such type of participant is not required to be licensed to participate.*

(c) Authorization to display under this section shall not be granted for events for which a temporary trade show license under K.S.A. 2020 Supp. 8-2444, and amendments thereto, would be required.

(d) The director may deny an application for a license under this section if the director:

(1) Has probable cause to believe that the applicant's request for a license should be made under the provisions of K.S.A. 2020 Supp. 8-2444, and amendments thereto; or

(2) the request for a license under this section is being made to avoid compliance with the provisions of K.S.A. 2020 Supp. 8-2444, and amendments thereto.

(e) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

Sec. 3. K.S.A. 2020 Supp. 8-2435 is hereby repealed.

Sec. 4. On and after July 1, 2021, K.S.A. 2020 Supp. 8-2435, as amended by section 1 of 2021 Senate Bill No. 33, is hereby repealed.

Sec. 5. On and after January 1, 2022, K.S.A. 2020 Supp. 8-2404 is hereby repealed.

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

Approved April 5, 2021.

Published in the *Kansas Register* April 15, 2021.

CHAPTER 21

HOUSE BILL No. 2172

AN ACT concerning water; relating to the division of water resources of the department of agriculture; modifying multi-year flex accounts, base average usage calculation and fees; permitting alternative base average usage calculation and prorated terms; amending K.S.A. 82a-736 and repealing the existing section.

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

Section 1. K.S.A. 82a-736 is hereby amended to read as follows: 82a-736. (a) It is hereby recognized that an opportunity exists to improve water management by enabling multi-year flexibility in the use of water authorized to be diverted under a groundwater water right, provided~~,~~ that such flexibility neither impairs existing water rights, nor increases the total amount of water diverted, so that such flexibility has no long-term negative effect on the source of supply. It is therefore declared necessary and advisable to permit the establishment of multi-year flex accounts for groundwater water rights, together with commensurate protections for existing water rights and their source of supply.

(b) As used in this section:

(1) *"Alternative base average usage" means an allocation based on net irrigation requirements calculated pursuant to subsection (c)(1)(D)(ii) that may be used in place of the base average usage.*

(2) "Base water right" means a water right under which an applicant applies to the chief engineer to establish a multi-year flex account and where all of the following conditions exist:

(A) The authorized source of supply is groundwater; and

(B) the water right ~~has~~ *is* not ~~been~~ *currently* the subject of a *multi-year allocation due to a* change approval ~~to implement the provisions of K.A.R. 5-5-9(a)(2), K.A.R. 5-5-11(b)(2) or K.A.R. 5-5-11(b)(3), in effect upon the effective date of this act~~ *that allows an expansion of the authorized place of use*.

~~(2)~~*(3)* "Multi-year flex account" means a term permit ~~which~~ *that* suspends a base water right during its term, except when the term permit may be no longer exercised because of an order of the chief engineer, and is subject to the terms and conditions as provided in subsection (e).

~~(3)~~*(4)* "Base average usage" means: (A) The average amount of water actually diverted for ~~a~~ *the authorized* beneficial use under the base water right during calendar years 2000 through 2009, excluding*:*

(i) Any amount diverted in any such year that exceeded the ~~maximum annual quantity of water~~ *amount* authorized by the base water right; ~~or~~

(ii) any amount applied to an unauthorized place of use; and

(iii) diversions in calendar years when water was diverted under a multi-year allocation with an expansion of the authorized place of use due to a change approval;

(B) *if water use records are inadequate to accurately determine actual water use or upon demonstration of good cause by the applicant, the chief engineer may calculate the base average usage with less than all 10 calendar years during 2000 and 2009. In no case shall the base average usage be calculated with less than five calendar years during 2000 and 2009; or*

(C) if the holder of the base water right shows to the satisfaction of the chief engineer that water conservation reduced water use under the base water right during calendar years 2000 through 2009, then the *base* average ~~amount of water actually diverted for a beneficial use under the base water right during~~ *usage shall be calculated with* the five calendar years immediately before the calendar year when water conservation began~~, excluding any amount used in any such year that exceeded the amount authorized by the base water right~~.

~~(4)~~*(5)* "Chief engineer" means the chief engineer of the division of water resources of the department of agriculture.

~~(5)~~*(6)* "Flex account acreage" means the maximum number of acres lawfully irrigated during a calendar year ~~when no term, condition or limitation of the base water right has been violated~~*, except for any acres irrigated under a multi-year allocation that allowed for an expansion of the authorized place of use due to a change approval* and ~~either~~ *any* of the following conditions ~~is~~ *are* met:

(A) The calendar year is 2000 through 2009; ~~or~~

(B) if water conservation reduced water use under the base water right during calendar years 2000 through 2009, the calendar year is a year within the five calendar years immediately prior to the calendar year when water conservation began*; or*

(C) if an application to appropriate water was approved after December 31, 2004, the calendar year is any during the perfection period.

~~(6)~~*(7)* "Net irrigation requirement" means the net irrigation requirement for 50% chance rainfall of the county that corresponds with the location of the authorized place of use of the base water right as provided in K.A.R. 5-5-12, on the effective date of this act.

(c) (1) Any holder of a base water right that has not been deposited or placed in a safe deposit account in a chartered water bank may establish a multi-year flex account where the holder may deposit, in advance, the authorized quantity of water from such water right for any five consecutive calendar years, *except when the chief engineer determines a shorter period is necessary for compliance with a local enhanced management area or an intensive groundwater use control area and the corrective controls in the area do not prohibit the use of multi-year flex accounts, and* subject to all of the following:

(A) The water right must be vested or shall have been issued a certificate of appropriation;

(B) the withdrawal of water pursuant to the water right shall be properly and adequately metered;

(C) the water right is not deemed abandoned and is in compliance with the terms and conditions of its certificate of appropriation, all applicable provisions of law and orders of the chief engineer;

(D) the amount of water deposited in the multi-year flex account shall not exceed the greatest of the following:

(i) 500% of the base average usage;

(ii) 500% of the product of the annual net irrigation requirement multiplied by the flex account acreage, multiplied by 110%, but not greater than five times the maximum annual quantity authorized by the base water right;

(iii) if the authorized place of use is located wholly within the boundaries of a groundwater management district, an amount that shall not increase the long-term average use of the groundwater right as specified by rule or regulation promulgated pursuant to K.S.A. 82a-1028(o), and amendments thereto; or

(iv) pursuant to subparagraph ~~(E)~~ *(F)*, the amount computed in (i), (ii) or (iii) plus any deposited water remaining in a multi-year flex account up to 100% of the base average usage *or alternative base average usage*;

(E) *if the multi-year flex account is approved for less than five calendar years, the amount of water deposited in the multi-year flex account shall be prorated based on the number of calendar years approved and otherwise calculated as required by subsection (c)(1)(D)(i), (ii) or (iii); and*

(F) any deposited water remaining in a multi-year flex account up to 100% of the base average usage *or alternative base average usage* may be added to the deposit amount calculated in subparagraph (D) if the base water right is enrolled in another multi-year flex account during the calendar year in which the existing multi-year flex account expires. The total amount of water deposited in any multi-year flex account shall not exceed 500% of the authorized quantity of the base water right~~; and~~

~~(F) notwithstanding any other provisions of this subsection, except when the base water right is suspended due to the issuance of a two-year term permit in a designated drought emergency area for 2011 and 2012, the quantity of water deposited into a multi-year flex account shall be reduced by the quantity of water used in excess of the maximum annual quantity of the base water right during 2011 if the application for a multi-year flex account is filed with the chief engineer on or before July 15, 2012~~.

(2) The provisions of K.A.R. 5-5-11 are limited to changes in annual authorized quantity and shall not apply to this subsection.

(d) The chief engineer shall implement a program providing for the issuance of term permits to holders of groundwater water rights who have established flex accounts in accordance with this section. Such term per-

mits shall authorize the use of water in a flex account at any time during the ~~five~~ consecutive calendar years for which the application for the term permit authorizing a multi-year flex account is made, without annual limits on such use.

(e) Term permits provided for by this section shall be subject to the following:

(1) A separate term permit shall be required for each point of diversion authorized by the base water right.

(2) The quantity of water authorized for diversion shall be limited to the amount deposited pursuant to subsection (c)(1)(D).

(3) The rate of diversion for each point of diversion authorized under the term permit shall not exceed the rate of diversion for each point of diversion authorized under the base water right.

(4) The authorized place of use shall be the place of use or a subdivision of the place of use for the base water right. Any approval of an application to change the place of use of the base water right shall automatically result in a change to the place of use for the term permit.

(5) The point of diversion authorized by the term permit shall be specified by referencing one point of diversion authorized by the base water right at the time the multi-year flex account term permit application is filed with the chief engineer or at the time any approvals changing such referenced point of diversion of the base water right are approved during the multi-year flex account period. For a base water right with multiple points of diversion, each point of diversion authorized by a term permit shall receive a specific assignment of a maximum authorized quantity of water, assigned proportionately to the authorized annual quantities of the respective points of diversion under the base water right.

(6) The chief engineer may establish, by rules and regulations, criteria for such term permits.

(7) Except as explicitly provided for by this section, such term permits shall be subject to all provisions of the Kansas water appropriation act, and rules and regulations adopted under such act, and nothing in this section shall authorize impairment of any vested right or prior appropriation right by the exercise of such term permit.

(f) An application for a multi-year flex account shall be filed with the chief engineer on or before December 31 of the first year of the multi-year flex account term for which the application is being made.

(g) All costs of administration of this section shall be paid from fees for term permits provided for by this section. Any appropriation or transfer from any fund other than the water appropriation certification fund for the purpose of paying such costs shall be repaid to the fund from ~~which~~ *where* such appropriation or transfer is made. At the time of repayment, the secretary of agriculture shall certify to the director of accounts and

reports the amount to be repaid and the fund to be repaid. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified to the specified fund.

(h) The fee for a multi-year flex account term permit shall be the same as specified for other term permits in K.S.A. 82a-708c, and amendments thereto~~, except as follows:~~

~~(1) If the base water right is currently suspended due to the issuance of a two-year term permit in a designated drought emergency area for 2011 and 2012, then a holder of such term permit shall be subject to a $200 application fee for a multi-year flex account term permit if the application is filed on or before July 15, 2012; or~~

~~(2) if water use under the authority of the base water right exceeded the maximum annual quantity authorized by the base water right during 2011 and the holder of the base water right files an application for approval of a multi-year flex account term permit on or before July 15, 2012, then the application fee shall be $600~~.

(i) The chief engineer shall have full authority pursuant to K.S.A. 82a-706c, and amendments thereto, to require any additional measuring devices and any additional reporting of water use for term permits issued pursuant to this section. Failure to comply with any measuring or reporting requirement may result in a penalty, up to and including the revocation of the term permit and the suspension of the base water right for the duration of the term permit period.

(j) The chief engineer shall submit a written report on the implementation of this section to the house standing committee on agriculture and natural resources and the senate standing committee on natural resources on or before February 1 of each year.

(k) This section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 2. K.S.A. 82a-736 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, 2021.

CHAPTER 22

HOUSE BILL No. 2270

AN ACT concerning the distribution of the levy on fire insurance business premiums; relating to the state fire marshal fee fund, the emergency medical services operating fund and the fire training service program fund; modifying the distribution of moneys thereof; amending K.S.A. 75-1514 and repealing the existing section.

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

Section 1. K.S.A. 75-1514 is hereby amended to read as follows: 75-1514. (a) The commissioner of insurance shall remit all moneys received by the commissioner under ~~subsection (a) of~~ K.S.A. 75-1508, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. The state treasurer shall credit 10% of each such deposit to the state general fund, *up to an aggregate amount not to exceed $100,000 in each fiscal year,* and shall credit the remainder of each such deposit ~~to the fire marshal fee fund~~ *as follows:*

(1) 64% to the fire marshal fee fund established pursuant to this section;

(2) 20% to the emergency medical services operating fund established pursuant to K.S.A. 65-6151, and amendments thereto; and

(3) 16% to the fire service training program fund established pursuant to K.S.A. 76-327c, and amendments thereto.

(b) There is hereby created the fire marshal fee fund in the state treasury. All expenditures from the fire marshal 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 state fire marshal or a person or persons designated by the state fire marshal.

(c) ~~The commissioner of insurance shall remit all moneys received by the commissioner under subsection (b) of K.S.A. 75-1508, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the emergency medical services board operating fund~~*The amount that is credited to the state general fund pursuant to subsection (a) shall be 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 state fire marshal, the emergency services medical board and the fire service training program of the university of Kansas by other state agencies that receive appropriations from the state general fund to provide such services.*

~~(d) The commissioner of insurance shall remit all moneys received by the commissioner under subsection (c) of K.S.A. 75-1508, and amendments thereto, to the state treasurer in accordance with the provisions~~

~~of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the fire service training program fund.~~

Sec. 2. K.S.A. 75-1514 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, 2021.

CHAPTER 23

SENATE BILL No. 37

AN ACT concerning insurance; relating to producer licensing requirements; agent conduct; pertaining to examinations; fees; renewal dates; suspension, revocation or denial of licensure; licensure renewal; amending K.S.A. 2020 Supp. 40-241, 40-4902, 40-4903, 40-4905, 40-4909, 40-4912, 40-4915, 40-5505 and 40-5512 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 40-241 is hereby amended to read as follows: 40-241. Any applicant or prospective applicant for an agent's license, if an individual, shall be given an examination by the commissioner or the commissioner's designee to determine whether such applicant possesses the competence and knowledge of the kinds of insurance and transactions under the license applied for, or to be applied for, of the duties and responsibilities of such a license and of the pertinent provisions of the laws of this state. The applicant shall be tested on each class or subclassification of insurance ~~which~~ *that* may be written. An examination fee prescribed in rules and regulations adopted by the commissioner shall be paid by the applicant and shall be required for each class of insurance for each attempt to pass the examination. Such examination fee shall be in addition to the certification fee required under K.S.A. 40-252, and amendments thereto. There shall be four classes of insurance for the purposes of this act:

(1) Life;

(2) accident and health;

(3) casualty and allied lines; and

(4) property and allied lines.

An insurance license may be issued as a subclassification of casualty and allied lines to any auto rental agency. An auto rental agency may offer or sell insurance only in connection with and incidental to the rental of motor vehicles, whether at the rental office, at the point of delivery of a vehicle, or by preselection of coverage in a master, corporate or group rental agreement, in any of the following general categories:

(1) Personal accident insurance covering risks of travel~~,~~*;*

(2) motor vehicle liability insurance~~,~~*;*

(3) personal effects insurance providing coverage to renters and other occupants of the motor vehicle~~,~~*;*

(4) roadside assistance and emergency sickness protection programs~~,~~*;* and

(5) any other travel or auto-related coverage an auto rental company may offer in connection with and incidental to rental of motor vehicles. No insurance may be issued by an auto rental agency unless the rental period of the rental agreement does not exceed 90 consecutive days

and brochures and other written material clearly and correctly explaining insurance coverages offered by the agency are available for prospective renters and clear and complete disclosures are provided to prospective renters that such coverage may be duplicative of other insurance owned by the renter, that purchase of insurance coverage is not a condition for renting a motor vehicle and describing the process for filing a claim.

Auto rental agencies employing representatives shall conduct a training program for each representative, providing instruction on the kinds of insurance coverage offered by the agency.

No auto rental agency shall offer or solicit any insurance other than the coverages described in this section without an insurance license. No auto rental employee or auto rental agency shall advertise or otherwise hold themselves out as licensed insurers, insurance agents or insurance brokers.

The commissioner of insurance shall adopt rules and regulations with respect to the scope, subclassification, type and conduct of such examination. Examinations shall be given to applicants at least twice a month in Topeka, Kansas, and at least quarterly in other convenient locations in the state of Kansas. The commissioner shall publish or arrange for the publication of information and material which applicants can use to prepare for such examination. One or more rating organizations, advisory organizations or other associations may be designated by the commissioner to assist in, or assume responsibility for, distribution of the study manuals to applicants and other interested parties. Persons purchasing the study manual shall be charged a reasonable fee established or approved by the commissioner. In the event the publication and distribution of the study material or the development and conduct of examinations is delegated to private firms, organizations or associations and the state incurs no expense or obligation, the provisions of K.S.A. 75-3738 ~~to~~ *through* 75-3744~~, inclusive~~, and amendments thereto, shall not apply. If the commissioner of insurance finds that the individual applicant is trustworthy, competent and has satisfactorily completed the examination, the commissioner shall forthwith issue to the applicant a license as an insurance agent but the issuance of such license shall confer no authority to transact business in this state until the agent has been certified by a company pursuant to K.S.A. 40-241i, and amendments thereto. If such applicant fails to satisfactorily complete the examination, the examination may be retaken following a waiting period of not less than seven days from the date of the last attempt. If the applicant again fails to satisfactorily complete the examination, it may be retaken following another waiting period of not less than seven days from the date of the most recent attempt. ~~Thereafter, the examination may be retaken following a waiting period of not less than six months from the date of the most recent attempt, except that following a waiting period of two years from the date of the applicant's last exam-~~

~~ination attempt an applicant will be treated as a new applicant and new examination and waiting periods shall apply.~~

Sec. 2. K.S.A. 2020 Supp. 40-4902 is hereby amended to read as follows: 40-4902. As used in this act:

(a) "Approved subject" or "approved course" means any educational presentation involving insurance fundamentals, insurance law, insurance policies and coverage, insurance needs, insurance risk management, insurance agency management or other areas, which is offered in a class, seminar, computer based training, interactive internet training or other similar form of instruction, and ~~which~~ *that* has been approved by the commissioner under this act as expanding skills and knowledge obtained prior to initial licensure under this act or developing new and relevant skills and knowledge in preparation for such licensure.

(b) "Biennial due date" means the ~~date~~ *last day* of *the* birth *month* of any licensed insurance agent who is required to complete C.E.C.'s and report the completion of such C.E.C.'s to the commissioner pursuant to this act, except that such due date shall not be earlier than two years from the date of the insurance agent's initial licensure under this act. The biennial due date for a registered business entity shall be the *last day of the month of the* date of initial licensure under this act.

(c) "Biennium" means the period starting with the insurance agent's biennial due date in 2001 and each two-year period thereafter for any insurance agent who was born in an odd-numbered year. For any insurance agent who was born in an even-numbered year, the term shall mean the period starting with the insurance agent's biennial due date in 2002 and each two-year period thereafter. The biennium for a registered business entity shall be the two-year period following such business entity's initial licensure or renewal of such license.

(d) "Broker" means any individual who acts or aids in any manner in negotiating contracts of insurance, or in placing risks or in soliciting or effecting contracts of insurance as an agent for an insured other than such individual and not as an agent of an insurance company or any other type of insurance carrier. The term "broker" ~~shall~~ *does* not include*:* A person working as an officer for an insurance carrier, or in a clerical, administrative or service capacity for an insurance carrier, licensed agent or broker, provided that such person does not solicit contracts of insurance. ~~The term "broker" shall not include~~*, or* an attorney-at-law in the performance of such attorney's duties, an insured who places or negotiates the placement of such insured's own insurance, or any employee of an insured engaged in placing or negotiating for placement of insurance for such employee's employer.

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

(f) "C.E.C." means continuing education credit containing at least 50 minutes of instruction in each clock hour. The term C.E.C. also includes any value, expressed in a whole number of units, assigned by the commissioner to an approved subject.

(g) "Commissioner" means the commissioner of insurance as defined in K.S.A. 40-102, and amendments thereto. The term "commissioner ~~shall~~" also ~~include~~ *includes* any authorized representative or designee of the commissioner.

(h) "Department" means the insurance department established by K.S.A. 40-102, and amendments thereto.

(i) "Home state" means the District of Columbia and any state or territory of the United States in which an insurance agent maintains such agent's principal place of residence or principal place of business and is licensed to act as an insurance agent.

(j) "Inactive agent" means any licensed agent who presents evidence satisfactory to the commissioner ~~which~~ *that* demonstrates that such agent will not do any act toward transacting the business of insurance for not ~~less than two but not~~ more than four years from the date such evidence is received by the commissioner.

(k) "Insurance agent" and "agent" means any person required to be licensed under the provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to sell, solicit or negotiate insurance. For the purposes of ~~this~~ *the uniform agents licensing* act, whenever the terms "agent" or "broker" appear in chapter 40 of the Kansas Statutes Annotated, and amendments thereto, each term ~~shall mean~~ *means* insurance agent unless the context requires otherwise. "Insurance agent" also includes the terms "insurance producer" or "producer."

(l) "Insurance" means any of the lines of authority specified in ~~subsection (a) of~~ K.S.A. 2020 Supp. 40-4903*(a)*, and amendments thereto.

(m) "Insurance producer" or "producer" means any person licensed under the laws of another state to sell, solicit, or negotiate insurance. For the purposes of this act, the terms "insurance agent" and "agent" ~~shall~~ include an "insurance producer" or "producer" when the context so requires. In the context of a producer database maintained by this state, another state or the NAIC, the term "producer ~~shall include~~" *includes* "agent."

(n) "Insurer" and "insurance company" ~~shall have the meaning ascribed to the term~~ *means the same as* "insurance company" *as defined* by K.S.A. 40-222c, and amendments thereto.

(o) "License" means a document issued by ~~this state's insurance~~ *the* commissioner authorizing a person to act as an insurance agent for the lines of authority specified in such document.

(p) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment,

mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance commissioner determines should be designated a form of limited line credit insurance.

(q) "Limited line credit insurance agent" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.

(r) "NAIC" means the national association of insurance commissioners.

(s) "Negotiate" means the act of conferring directly with or offering advice directly to any purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of such contract, provided that the person engaged in such act either sells insurance or obtains insurance from insurers for purchasers.

(t) "Person" means an individual or a business entity.

(u) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(v) "Solicit" ~~shall include~~ *includes* any attempt to sell insurance or asking or urging a person to apply for any particular kind of insurance from any particular insurance company.

Sec. 3. K.S.A. 2020 Supp. 40-4903 is hereby amended to read as follows: 40-4903. (a) Unless denied licensure pursuant to K.S.A. 2020 Supp. 40-4909, and amendments thereto, any person who meets the requirements of K.S.A. 2020 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~~ *that* 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. 2020 Supp. 40-4909, and amendments thereto, an insurance agent license shall remain in effect as long as*:*

(1) Education requirements for resident individual agents are met by such insurance agent's biennial due date*;*

(2) such insurance agent submits an application for renewal on a form prescribed by the commissioner; and

(3) on and after January 1, 2022, such insurance agent pays a biennial renewal application fee of $4.

(c) *(1) (A)* On and after ~~the effective date of this act: (1)~~ *July 1, 2001, through December 31, 2021,* 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~~ *that includes* at least one hour of instruction in insurance ethics ~~which also~~*, and* may include regulatory compliance. ~~No more than three of the required C.E.C.s shall be in insurance agency management.~~

(B) On and after January 1, 2022, except as provided in paragraphs (3) through (6), each licensed insurance agent shall biennially obtain a minimum of 18 C.E.C.s that include at least three hours of instruction in insurance ethics that also may include regulatory compliance.

(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.~~*On and after July 1, 2001, through December 31, 2021, 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 obtain a minimum of 12 C.E.C.s in courses certified as life, accident and health, or variable contracts that include at least one hour of instruction in insurance ethics and may include regulatory compliance.*

(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~~ *and* shall provide certification from an officer of each insurance company ~~which~~ *that* 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, *self-service storage unit or travel insurance* qualification is exempt from the requirement to obtain C.E.C.s.

(7) (A) A licensed insurance agent who is a member of the national guard or any reserve component of the armed services of the United States who serves on active duty for at least 90 consecutive days shall be exempt from the requirement to obtain C.E.C.s during the time that such insurance agent is on active duty.

(B) The commissioner shall grant an extension to any licensed insurance agent described in subparagraph (A) until the biennial due date that occurs in the year next succeeding the year in which such active duty ceases.

(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)~~*(e)* (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~~ *that* 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~~ *means* 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)~~*(f)* (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) *(A)* 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.

(B) The commissioner shall accept, without substantive review, any course, program of study or subject submitted by a provider ~~which~~ *that* has been approved by the insurance supervisory authority of any other state or territory accredited by the NAIC. The commissioner may disap-

prove 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 subsection ~~(g)~~ *(f)*(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)~~*(g)* Upon request, the commissioner shall provide a list of all approved continuing education courses currently available to the public.

~~(i)~~*(h)* An individual insurance agent who independently studies an insurance course, program of study or subject ~~which~~ *that* 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)~~*(i)* 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. 4. K.S.A. 2020 Supp. 40-4905 is hereby amended to read as follows: 40-4905. (a) Subject to the provisions of K.S.A. 2020 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 appli-

cant'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. 2020 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*, in addition to the requirements of subsection (a),* the commissioner shall ~~make the following additional determinations in addition to those required by subsection (a):~~

~~(1)~~ *also determine* 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)~~*(d)* The commissioner may require the applicant to furnish any document or other material reasonably necessary to verify the information contained in an application.

~~(f)~~*(e)* 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.~~

(f) (1) Each person or entity licensed in this state as an insurance agent shall report the following to the commissioner within 30 calendar days of occurrence:

(A) Each disciplinary action on the agent's license or licenses by the insurance regulatory agency of any other state or territory of the United States;

(B) each disciplinary action on an occupational license held by the licensee, other than an insurance agent's license, by the appropriate regulatory authority of this or any other jurisdiction;

(C) each judgment or injunction entered against the licensee on the basis of a violation of any insurance law or conduct involving fraud, deceit or misrepresentation;

(D) all details of any conviction of a misdemeanor or felony other than minor traffic violations. The details shall include the name of the arresting agency, the location and date of the arrest, the nature of the charge or charges, the court in which the case was tried and the disposition rendered by the court;

(E) each change of name. If the change of name is effected by court order, a copy of the court order shall be furnished to the commissioner;

(F) each change in residence or mailing address, email address or telephone number;

(G) each change in the name or address of the agency with which the agent is associated; and

(H) each termination of a business relationship with an insurer if the termination is for cause, including the reason for the termination of the business relationship with such insurer.

(2) Each person or entity licensed in this state as an insurance agent shall provide to the commissioner, upon request, a current listing of company affiliations and affiliated insurance agents.

(3) Each business entity licensed in this state as an insurance agent shall report each change in legal or mailing address, email address and telephone number to the commissioner within 30 days of occurrence.

(4) Each business entity licensed in this state as an insurance agent shall report each change in the name and address of the licensed agent who shall

be responsible for the business entity's compliance with the insurance laws of this state to the commissioner within 30 days of occurrence.

~~(h)~~*(g)* 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)~~*(h)* (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)~~*(h)*(1) and ~~(i)~~*(h)*(2).

Sec. 5. K.S.A. 2020 Supp. 40-4909 is hereby amended to read as follows: 40-4909. (a) The commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has:

(1) Provided incorrect, misleading, incomplete or untrue information in the license application.

(2) Violated:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any ~~rule~~ *rules* and ~~regulation~~ *regulations* promulgated thereunder;

(B) any subpoena or order of the commissioner;

(C) any insurance law or regulation of another state; or

(D) any subpoena or order issued by the regulatory official for insurance in another state.

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud.

(4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.

(5) Intentionally misrepresented the provisions, terms and conditions of an actual or proposed insurance contract or application for insurance.

(6) Been convicted of a misdemeanor or felony.

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404, and amendments thereto.

(8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

(9) Had an insurance agent license, or its equivalent, denied, suspended or revoked in any ~~other~~ state, district or territory.

(10) Forged another person's name to an application for insurance or to any document related to an insurance transaction.

(11) Improperly used notes or any other reference material to complete an examination for an insurance license issued under this act.

(12) Knowingly accepted insurance business from an individual who is not licensed.

(13) Failed to comply with any administrative or court order imposing a child support obligation upon the applicant or license holder.

(14) Failed to pay any state income tax or comply with any administrative or court order directing payment of state income tax.

(15) Rebated the whole or any part of any insurance premium or offered in connection with the presentation of any contract of insurance any other inducement not contained in the contract of insurance.

(16) Made any misleading representation or incomplete comparison of policies to any person for the purposes of inducing or tending to induce such person to lapse, forfeit or surrender such person's insurance then in force.

(17) Failed to respond to an inquiry from the commissioner within 15 business days.

(b) In addition, the commissioner may *deny,* suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.

(c) *(1) When considering whether to deny, suspend, revoke or refuse to renew the application of an individual who has been convicted of a misdemeanor or felony, the commissioner shall consider the:*

(A) Applicant's age at the time of the conduct;

(B) recency of the conduct;

(C) reliability of the information concerning the conduct;

(D) seriousness of the conduct;

(E) factors underlying the conduct;

(F) cumulative effect of the conduct or information;

(G) evidence of rehabilitation;

(H) applicant's social contributions since the conduct;

(I) applicant's candor in the application process; and

(J) materiality of any omissions or misrepresentations.

(2) In determining whether to reinstate or grant to an applicant a license that has been revoked, the commissioner shall consider the:

(A) Present moral fitness of the applicant;

(B) demonstrated consciousness by the applicant of the wrongful conduct and disrepute that the conduct has brought to the insurance profession;

(C) extent of the applicant's rehabilitation;

(D) seriousness of the original conduct;

(E) applicant's conduct subsequent to discipline;

(F) amount of time that has elapsed since the original discipline;

(G) applicant's character, maturity and experience at the time of revocation; and

(H) applicant's present competence and skills in the insurance industry.

(d) Any action taken under this section ~~which~~ *that* affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedures act.

~~(d)~~*(e)* The license of any business entity may be suspended, revoked or refused renewal if the insurance commissioner finds that any violation committed by an individual licensee employed by or acting on behalf of such business entity was known by or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and:

(1) Such violation was not reported to the insurance commissioner by such business entity; or

(2) such business entity failed to take any corrective action.

~~(e)~~*(f)* None of the following actions shall deprive the commissioner of any jurisdiction or right to institute or proceed with any disciplinary proceeding against such license, to render a decision suspending, revoking or refusing to renew such license, or to establish and make a record of the facts of any violation of law for any lawful purpose:

(1) The imposition of an administrative penalty under this section;

(2) the lapse or suspension of any license issued under this act by operation of law;

(3) the licensee's failure to renew any license issued under this act; or

(4) the licensee's voluntary surrender of any license issued under this act. No such disciplinary proceeding shall be instituted against any licensee after the expiration of two years from the termination of the license.

~~(f)~~*(g)* Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" shall include witness fees, mileage allowances, any costs associated with the reproduction of documents ~~which~~ *that* become a part of the hearing record and the expense of making a record of the hearing.

~~(g)~~*(h)* No person whose license as an agent or broker had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation of or transaction of any business of insurance during the period of such suspension or revocation.

~~(h)~~*(i)* In lieu of taking any action under subsection (a), the commissioner may:

(1) Censure the person; or

(2) issue an order imposing an administrative penalty up to a maximum of $500 for each violation but not to exceed $2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of $1,000 for each violation but not to exceed $5,000 for the same violation occurring within any six consecutive calendar months from the date of the imposition of the original administrative penalty.

(j) (1) An applicant to whom a license has been denied after a hearing shall not apply for a license again until after the expiration of a period of one year from the date of the commissioner's order.

(2) A licensee whose license was revoked shall not apply for a license again until after the expiration of a period of two years from the date of the commissioner's order.

Sec. 6. On and after January 1, 2022, K.S.A. 2020 Supp. 40-4912 is hereby amended to read as follows: 40-4912. (a) Any company authorized to transact business in this state may, upon determining that the insurance

agent is of good business reputation and, if an individual, has had experience in insurance or will immediately receive a course of instruction in insurance and on the policies and policy forms of such company, appoint such insurance agent as the insurance agent of the company under the license in effect for the insurance agent. The appointment shall be made on a form prescribed by the commissioner. Such form shall be sent to the commissioner within 30 days of the date the company appoints such insurance agent. A nonrefundable appointment or certification fee set forth in K.S.A. 40-252, and amendments thereto, shall be paid in accordance with the billing procedures established by the commissioner. Such procedures shall require payment of the fees annually, based on the number of insurance agents appointed during the calendar year preceding the return. The certification fees required by K.S.A. 40-252, and amendments thereto, shall be due for all insurance agents appointed by the company during the preceding calendar year, irrespective of the number of months the insurance agent was appointed for that year. The certification fee shall not be returned for any reason, and failure of the company to certify an insurance agent within 30 working days of such insurance agent's appointment shall subject the company to a penalty of not more than $25 per calendar day from the date the appropriate return was required from the date of appointment to the date proper certification is recorded by the insurance department.

(b) ~~Certification of other than an individual insurance agent will automatically include each licensed insurance agent who is an officer, director, partner, employee or otherwise legally associated with the corporation, association, partnership or other legal entity appointed by the company. The required annual certification fee shall be paid for each licensed insurance agent certified by the company and the prescribed reporting form shall be returned at the same time the company files its tax returns as required by K.S.A. 40-252, and amendments thereto.~~

~~(c)~~ With respect to insurance on growing crops, evidence satisfactory to the commissioner that the insurance agent is qualified to transact insurance in accordance with standards or procedures established by any branch of the federal government shall be deemed to be the equivalent of certification by a company.

~~(d)~~*(c)* Duly licensed insurance agents transacting business in accordance with the provisions of article 41 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, shall be deemed to be certified by a company for the kinds of insurance permitted under the license in effect for the insurance agent.

Sec. 7. K.S.A. 2020 Supp. 40-4915 is hereby amended to read as follows: 40-4915. (a) Notwithstanding the provisions of K.S.A. 2020 Supp. 40-4903 and 40-4906, and amendments thereto, any person who is cur-

rently licensed as an insurance agent on the day before the effective date of this act and whose biennial due date occurred during the 24 calendar months immediately preceding the effective date of this act shall be deemed to be licensed as an insurance agent under this act unless such person's license has been suspended, revoked or refused renewal prior to the effective date of this act.

(b) Any person licensed as an insurance agent under the provisions of subsection (a) shall renew such license in accordance with the provisions of this act on or before the first occurrence of such person's biennial due date after the effective date of this act.

(c) If the required renewal application is not received by the commissioner by the individual insurance agent's biennial due date, such individual insurance agent's qualification and each corresponding license shall be suspended automatically for a period of 90 calendar days or until such time as the agent satisfactorily submits a completed application, whichever occurs first. 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 renewal application and the monetary penalty within 90 calendar days of such insurance agent's biennial due date, such individual insurance agent's qualification and each 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 desires to reinstate such insurance agent's license, such individual shall provide the required renewal application 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 desires 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.

Sec. 8. K.S.A. 2020 Supp. 40-5505 is hereby amended to read as follows: 40-5505. (a) Before issuing a public adjuster license to an applicant under ~~this~~ *the public adjusters licensing* act, the commissioner shall find that the applicant:

(1) Is eligible to designate this state as the applicant's home state or is a nonresident who is not eligible for a license under K.S.A. 2020 Supp. 40-5508, and amendments thereto;

(2) has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in K.S.A. 2020 Supp. 40-5510, and amendments thereto;

(3) is trustworthy, reliable and of good reputation, evidence of which may be determined by the commissioner;

(4) is financially responsible to exercise the rights and privileges under the license and has provided proof of financial responsibility as required in K.S.A. 2020 Supp. 40-5511, and amendments thereto;

(5) has paid an application fee of $100; and

(6) maintains an office in the home state with public access during regular business hours or by reasonable appointment.

(b) In addition to satisfying the requirements of subsection (a), an applicant shall:

(1) Be at least 18 years of age; and

(2) have successfully passed the public adjuster examination.

(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

(d) (1) The commissioner may require a person applying for a public adjuster license to be fingerprinted and submit to a state and national criminal history record check or to submit to a background check, or both.

(A) The 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 commissioner shall submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the 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.

(B) The commissioner may conduct or have a third party conduct a background check on a person applying for a public adjuster license.

(2) Whenever the commissioner requires fingerprinting or a background check, or both, any associated costs shall be paid by the applicant.

(3) The commissioner may use the information obtained from a background check, fingerprinting and the applicant's criminal history only for purposes of verifying the identity of the applicant and in the official determination of the fitness of the applicant to be issued a license as a public adjuster in accordance with the public adjusters licensing act.

Sec. 9. K.S.A. 2020 Supp. 40-5512 is hereby amended to read as follows: 40-5512. (a) As used in this section:

(1) "Biennial due date" means the *last day of the month of the* date of birth of any public adjuster who is required to complete continuing education credits and report the completion of the continuing education credits to the commissioner, except that such due date shall not be earlier than two years from the date of the public adjuster's initial licensure under this act.

(2) "Biennium" means, for any public adjuster who was born in an odd-numbered year, the two-year period starting with the public adjuster's biennial due date in 2011 and each two-year period thereafter. For any public adjuster who was born in an even-numbered year, such term means the two-year period starting with the public adjuster's biennial due date in 2012 and each two-year period thereafter.

(b) An individual, who holds a public adjuster license and who is not exempt under subsection (d), shall satisfactorily complete a minimum of ~~12~~ *18* hours of continuing education courses~~, which shall include 11 hours of property/casualty or general continuing education courses and one hour~~ *including three hours* of ethics, reported on a biennial basis in conjunction with the license renewal cycle. Only continuing education courses approved by the commissioner shall be used to satisfy the requirements of this subsection.

(c) Unless suspended, revoked or refused renewal pursuant to K.S.A. 2020 Supp. 40-5510, and amendments thereto, a public adjuster's license shall remain in effect as long as the education requirements for a resident public adjuster are met by such public adjuster's biennial due date.

(d) The continuing education requirements of this section shall not apply to licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.

Sec. 10. K.S.A. 2020 Supp. 40-241, 40-4902, 40-4903, 40-4905, 40-4909, 40-4915, 40-5505 and 40-5512 are hereby repealed.

Sec. 11. On and after January 1, 2022, K.S.A. 2020 Supp. 40-4912 is 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, 2021.

CHAPTER 24

HOUSE BILL No. 2008*

AN ACT concerning the attorney general; providing for coordination of training on missing and murdered indigenous people for law enforcement agencies.

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

Section 1. In consultation with Native American Indian tribes, the Kansas bureau of investigation, the Kansas law enforcement training center and other appropriate state agencies, the attorney general may coordinate training regarding missing and murdered indigenous persons for law enforcement agencies throughout Kansas.

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

Approved April 7, 2021.

CHAPTER 25

HOUSE BILL No. 2321*

AN ACT concerning electric utilities; relating to the state corporation commission; construction of urban electric transmission lines in cities; requiring notice prior to construction.

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

Section 1. (a) No electric utility shall begin site preparation for or construction of an urban electric transmission line or exercise the right of eminent domain to acquire any interest in land in connection with the site preparation or construction of any such line before such utility has:

(1) Provided notice of the preliminary construction plans to the city in which such urban electric transmission line is proposed to be constructed, and the notice shall:

(A) Be provided at least six months prior to any anticipated construction; and

(B) provide the preliminary construction plans and show the proposed location of all poles and shall provide the dimensions of all poles and supporting facilities relative to existing streets, sight triangles at intersections, easements and public rights-of-way and visual examples; and

(2) provided notice of the proposed construction and of the open house required pursuant to paragraph (4) to:

(A) All landowners and tenants of record whose land or interest therein is proposed to be acquired in connection with the construction of or is located within 660 feet of the center line of the easement where such line is proposed to be located;

(B) the governing body of the city through which such line is proposed to traverse; and

(C) the state corporation commission;

(3) at least one week prior to such open house, published notice of the time, place and subject matter of the open house in a newspaper having general circulation in the city through which such line is proposed to traverse;

(4) conducted an open house in the city through which such line is proposed to traverse that:

(A) Allows landowners who received notice of the open house to provide public comment regarding the proposed construction;

(B) has a commissioner and a staff person of the state corporation commission in attendance at such open house; and

(C) is held either on a weekend day or after 5:00 p.m. on a weekday; and

(5) obtained any necessary permits required by the city for construction or work conducted in the public right-of-way.

(b) The provisions of this section shall not apply to construction or repair of an urban electric transmission line that is necessary due to damage caused by any storm, natural disaster or any other source of physical damage to the line.

(c) All information required to be provided pursuant to this section shall be provided to the infrastructure planning authority of the city in which the urban electric transmission line is proposed to be constructed.

(d) For purposes of this section:

(1) "Electric utility" means any electric utility as defined in K.S.A. 66-101a, and amendments thereto. "Electric utility" does not mean any municipal utility, electric cooperative as defined in K.S.A. 66-104d, and amendments thereto, or any electric utility owned by one or more of such cooperatives.

(2) "Urban electric transmission line" means any line or extension of a line that:

(A) Is at least 2½ miles in length;

(B) traverses at least 2½ contiguous miles through the corporate limits of a city having a population of 300,000 or more; and

(C) is designed for the transfer of at least 69 kilovolts but less than 230 kilovolts of electricity.

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

Approved April 7, 2021.

CHAPTER 26

SENATE BILL No. 24*

AN ACT concerning municipalities; prohibiting any requirements that impact a customer's use of energy; relating to the retail provision of natural gas and propane; creating the Kansas energy choice act.

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

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

(1) "Municipality" means any county, city, township or other political or taxing subdivision thereof, or any board, bureau, commission, committee, department, division or other agency thereof.

(2) "Utility service" means the retail provision of natural gas or propane.

(b) A municipality shall not impose any ordinance, resolution, code, rule, provision, standard, permit, plan or any other binding action that prohibits, discriminates against, restricts, limits, impairs, or has the effect thereof, an end use customer's use of a utility service.

(c) This section shall not be construed to restrict the ability of a municipality to limit an end use customer's use of a utility service if the end use customer is such municipality.

(d) This section shall be known and may be cited as the Kansas energy choice act.

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

Published in the *Kansas Register* April 22, 2021.

(See Message from the Governor)

CHAPTER 27

HOUSE BILL No. 2112

AN ACT concerning self-storage rental units; relating to sales by operators of property due to abandonment or nonpayment of rent; occupant's designation of alternate contact; contractual value of property; amending K.S.A. 58-816 and K.S.A. 2020 Supp. 58-817 and repealing the existing sections.

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

Section 1. K.S.A. 58-816 is hereby amended to read as follows: 58-816. (a) The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor or other charges, and for expenses reasonably incurred in its sale, as provided in the self-service storage act.

(b) *For purposes of any claim or action against an operator involving a claim of damage to, or the loss of, personal property stored in a leased space pursuant to a rental agreement with the operator, the value of such personal property shall be limited by the maximum value of personal property permitted to be stored in the leased space under the terms of the rental agreement.*

(c) The rental agreement shall contain a statement, in bold type, advising the occupant:

(1) Of the existence of the lien;

(2) that property stored in the leased space may be sold to satisfy the lien if the occupant is in default; ~~and~~

(3) that any proceeds from the sale of the property ~~which~~ *that* remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after sale of the property*; and*

(4) of the claim limitation pursuant to subsection (b).

(d) The rental agreement shall include a query of the occupant as to whether the occupant wishes to designate an alternative contact to receive notices required by the self-storage act and space to designate such alternative contact. Failure or refusal of an occupant to designate an alternative contact shall not affect an occupant's or operator's rights or remedies under the self-storage act or under any other provision of law. The alternative contact, if any, shall not have any rights to access the leased space or to the personal property stored in the leased space unless expressly stated otherwise in the rental agreement.

Sec. 2. K.S.A. 2020 Supp. 58-817 is hereby amended to read as follows: 58-817. (a) (1) If the occupant is in default for a period of more than 45 days, the operator may enforce the lien by selling the property stored in the leased space for cash. Sale of the property stored on the premises may be *conducted online or in person,* by public or private proceedings

and may also be as a unit or in parcels, or by way of one or more contracts and at any time or place, and on any terms as long as the sale is commercially reasonable. The operator may otherwise dispose of any property ~~which~~ *that* has no commercial value.

(2) The proceeds of such sale shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (d).

(b) Before conducting a sale under subsection (a), the operator shall:

(1) Notify the occupant of the default by first-class mail at the occupant's last-known address, and by electronic mail if the occupant has provided an electronic mail address to the operator;

(2) send a second notice of default, not less than seven days after the notice required by subsection (b)(1), by first-class mail to the occupant at the occupant's last-known address, and by electronic mail if the occupant has provided an electronic mail address to the operator. A second notice of default shall include:

(A) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(B) a statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of release for sale and the date those additional charges shall become due;

(C) a demand for payment of the charges due within a specified time, not less than 10 days after the date of the notice;

(D) a statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold after a specified time; and

(E) the name, street address and telephone number of the operator, or a designated agent whom the occupant may contact to respond to the notice.

(3) At least seven days before the sale, advertise the time, place and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held *or in any other commercially reasonable manner*. Such advertisement shall be in the classified section of the newspaper*, if notice is placed in the newspaper. If less than three independent bidders attend the sale in person or view the sale online at the time and place advertised, the manner of advertising the sale shall not be considered to have been commercially reasonable and the sale shall be canceled, rescheduled and readvertised. Further notice to the occupant shall not be required*.

(c) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(d) If a sale is held under this section, the operator shall:

(1) Satisfy the lien from the proceeds of the sale; and

(2) hold the balance, if any, for delivery on demand to the occupant or any other recorded lienholders for a period of one year after receipt of proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds remaining after satisfaction of the lien shall be considered abandoned property to be reported and paid to the state treasurer in accordance with the disposition of unclaimed property act.

(e) A purchaser in good faith of any personal property sold under the self-service storage act takes the property free and clear of any rights of:

(1) Persons against whom the lien was valid; and

(2) other lienholders.

(f) If the operator complies with the provisions of the self-service storage act, the operator's liability:

(1) To the occupant shall be limited to the net proceeds received from the sale of the personal property; and

(2) to other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by the other lien.

(g) If an occupant is in default, the operator may deny the occupant access to the leased space.

(h) Notices to the occupant shall be sent to the occupant at the occupant's last-known address. Notices shall be deemed delivered when deposited with the United States postal service, properly addressed as provided in subsection (b), with postage prepaid.

Sec. 3. K.S.A. 58-816 and K.S.A. 2020 Supp. 58-817 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 9, 2021.

CHAPTER 28

HOUSE BILL No. 2022

AN ACT concerning oil and gas wells; relating to the state corporation commission; investigation and determination of responsibility for abandoned wells; plugging abandoned wells; abolishing the well plugging assurance fund and transferring all assets and liabilities to the abandoned oil and gas well fund; amending K.S.A. 55-150, 55-161, 55-168, 55-178, 55-179, 55-180, 55-192 and 75-3036 and K.S.A. 2020 Supp. 55-155 and repealing the existing sections; also repealing K.S.A. 55-163, 55-166 and 55-167 and K.S.A. 2020 Supp. 55-193.

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

Section 1. K.S.A. 55-150 is hereby amended to read as follows: 55-150. As used in this act unless the context requires a different meaning:

(a) "Commission" means the state corporation commission.

(b) "Contractor" means any person who acts as agent for an operator as a drilling, plugging, service rig or seismograph contractor in such operator's oil and gas, cathodic protection, gas gathering or underground natural gas storage operations.

(c) "Fresh water" means water containing not more than 1,000 milligrams per liter, total dissolved solids.

(d) "Gas gathering system" means a natural gas pipeline system used primarily for transporting natural gas from a wellhead, or a metering point for natural gas produced by one or more wells, to a point of entry into a main transmission line, but shall not mean or include: (1) Lead lines from the wellhead to the connection with the gathering system which are owned by the producing person; ~~and~~ *or* (2) gathering systems under the jurisdiction of the federal energy regulatory commission.

(e) "Operator" means a person who is responsible for the physical operation and control of a well, gas gathering system or underground porosity storage of natural gas.

(f) "Person" means any natural person, partnership, governmental or political subdivision, firm, association, corporation or other legal entity.

(g) "Rig" means any crane machine used for drilling or plugging wells.

(h) "Underground porosity storage" has the meaning provided by K.S.A. 55-1,115, and amendments thereto.

(i) "Usable water" means water containing not more than 10,000 milligrams per liter, total dissolved solids.

(j) "Well" means a hole *or penetration of the surface of the earth,* drilled or recompleted for the purpose of:

(1) Producing oil or gas;

(2) injecting fluid, air or gas in the ground in connection with the exploration for or production of oil or gas;

(3) obtaining geological information in connection with the exploration for or production of oil or gas by taking cores or through seismic operations;

(4) disposing of fluids produced in connection with the exploration for or production of oil or gas;

(5) providing cathodic protection to prevent corrosion to lines, *tanks or structures*; or

(6) injecting or withdrawing natural gas.

Sec. 2. K.S.A. 2020 Supp. 55-155 is hereby amended to read as follows: 55-155. (a) Operators and contractors shall be licensed by the commission pursuant to this section.

(b) Every operator and contractor shall file an application or a renewal application with the commission. Application and renewal application forms shall be prescribed, prepared and furnished by the commission.

(c) No application or renewal application shall be approved until the applicant has:

(1) Provided sufficient information, as required by the commission, for purposes of identification;

(2) submitted evidence that all current and prior years' taxes for property associated with the drilling or servicing of wells have been paid;

(3) demonstrated to the commission's satisfaction that the applicant complies with all requirements of chapter 55 of the Kansas Statutes Annotated, and amendments thereto, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is registered with the federal securities and exchange commission;

(4) demonstrated to the commission's satisfaction that the following comply with all requirements of chapter 55 of the Kansas Statutes Annotated, and amendments thereto, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is not registered with the federal securities and exchange commission: (A) The applicant; (B) any officer, director, partner or member of the applicant; (C) any stockholder owning in the aggregate more than 5% of the stock of the applicant; and (D) any spouse, parent, brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the foregoing;

(5) paid an annual license fee of $100, except that an applicant for a license who is operating one or more gas wells used strictly for personal use on the property where such gas wells are located shall pay an annual license fee of $25;

(6) complied with subsection (d); and

(7) paid an annual license fee of $25 for each rig operated by the applicant. The commission shall issue an identification tag for each such rig which shall be displayed on such rig at all times.

(d) In order to assure financial responsibility, each operator shall annually demonstrate compliance with one of the following provisions:

(1) The operator has obtained an individual performance bond or letter of credit, in an amount equal to $.75 times the total aggregate depth of all wells, including active, inactive, injection or disposal, of the operator.

(2) The operator has obtained a blanket performance bond or letter of credit in an amount equal to the following, according to the number of wells, including active, inactive, injection or disposal, of the operator:

(A) Wells less than 2,000 feet in depth: 1 through 5 wells, $7,500; 6 through 25 wells, $15,000; and over 25 wells, $30,000.

(B) Wells 2,000 or more feet in depth: 1 through 5 wells, $15,000; 6 through 25 wells, $30,000; and over 25 wells, $45,000.

(3) The operator: (A) Has an acceptable record of compliance, as demonstrated during the preceding 36 months, with commission rules and regulations regarding safety and pollution or with commission orders issued pursuant to such rules and regulations; (B) has no outstanding undisputed orders issued by the commission or unpaid fines, penalties or costs assessed by the commission and has no officer or director that has been or is associated substantially with another operator that has any such outstanding orders or unpaid fines, penalties or costs; and (C) pays a nonrefundable fee of $100 per year.

(4) The operator pays a nonrefundable fee equal to 6% of the amount of the bond or letter of credit that would be required by subsection (d)(2).

(5) The state has a first lien on tangible personal property associated with oil and gas production of the operator that has a salvage value equal to not less than the amount of the bond or letter of credit that would be required by subsection (d)(1) or ~~by subsection~~ (d)(2).

(6) The operator has provided other financial assurance approved by the commission.

(e) Upon the approval of the application or renewal application, the commission shall issue to such applicant a license which shall be in full force and effect until one year from the date of issuance or until surrendered, suspended or revoked as provided in K.S.A. 55-162, and amendments thereto. No new license shall be issued to any applicant who has had a license revoked until the expiration of one year from the date of such revocation.

(f) If an operator transfers responsibility for the operation of a well or gas gathering system or for underground porosity storage of natural gas to another person, such operator shall file a notice of transfer of operator with the commission in accordance with rules and regulations of the commission. The commission shall, upon receipt of such notice, send a copy of such notice to the surface owner, as well as the contact information, including name, address, phone number, fax or email address, for a designated representative of the operator. The commission need not send such information if the operator verifies that the notice filed with the commis-

sion has been delivered to the surface owner. The commission need not send a copy of notice to the surface owner for transfers of responsibility for the operation of a gas gathering system or for underground porosity storage of natural gas to another person.

(g) The commission shall remit all moneys received from fees assessed pursuant to subsection (c)(7) ~~of this section~~ to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit 10% of each such deposit to the state general fund with the balance credited to the conservation fee fund created by K.S.A. 55-143, and amendments thereto.

(h) The commission shall remit all moneys received pursuant to subsections (d)(3) and (d)(4) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~well plugging assurance fund~~ *abandoned oil and gas well fund established pursuant to K.S.A. 55-192, and amendments thereto*.

Sec. 3. K.S.A. 55-161 is hereby amended to read as follows: 55-161. The commission shall investigate abandoned wells, and, based on actual or potential pollution problems, may select abandoned wells to be drilled out by the commission in order to test the integrity of the plugs. The cost of such testing shall be paid from ~~the well plugging assurance fund or~~ the abandoned oil and gas well fund~~, as appropriate~~ *established pursuant to K.S.A. 55-192, and amendments thereto*.

Sec. 4. K.S.A. 55-168 is hereby amended to read as follows: 55-168. Whenever there are insufficient moneys in ~~the well plugging assurance fund or~~ the abandoned oil and gas well fund *established pursuant to K.S.A. 55-192, and amendments thereto,* to pay the liabilities of such fund, such liabilities shall be and are hereby imposed on the conservation fee fund, *established pursuant to K.S.A. 55-143, and amendments thereto,* provided such liabilities were incurred in accordance with the prioritization ~~schedules~~ *schedule* established pursuant to ~~subsection (b)(2) of K.S.A. 55-166, and amendments thereto, and subsection (b)(2) of~~ K.S.A. 55-192, and amendments thereto.

Sec. 5. K.S.A. 55-178 is hereby amended to read as follows: 55-178. *(a)* Any person who has reason to believe that any *abandoned* well ~~which has been abandoned~~ is causing or is likely to cause the *loss of any usable water or* pollution of any usable water strata ~~or supply~~ or the *imminent* loss *or pollution* of any usable water ~~through downward drainage by reason of the fact that~~, *because* the well has not been plugged, was improperly plugged~~,~~ or ~~that~~ the plugging is no longer effective ~~by reason of the~~

~~deterioration of the pipe or by any other cause~~, may file a complaint in writing, so alleging, with the commission secretary. Such complaint shall state the location of the well and ~~the facts which caused~~ *why* the complainant ~~to believe~~ *believes* that such well is causing or is likely to cause the *loss of any usable water or* pollution of any usable water strata ~~or supply~~ or the *imminent* loss *or pollution* of *any* usable water.

(b) Upon receipt of any complaint filed pursuant to this section, the commission shall conduct an investigation for the purpose of determining whether the well is an abandoned well causing or likely to cause loss of any usable water or pollution of any usable water strata or the imminent loss or pollution of any usable water. As a result of the investigation, the commission may take any action or issue any order pursuant to the provisions of the Kansas administrative procedure act as may be appropriate. Proceedings for reconsideration and judicial review of any order shall be conducted in the manner provided pursuant to K.S.A. 55-606, and amendments thereto.

(c) As used in this section, "abandoned well" means a well that is not claimed on an operator's license that is active with the commission and is unplugged, improperly plugged or no longer effectively plugged.

Sec. 6. K.S.A. 55-179 is hereby amended to read as follows: 55-179. ~~(a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178 and amendments thereto, the commission shall make an investigation for the purpose of determining whether such abandoned well is polluting or is likely to pollute any usable water strata or supply or causing the loss of usable water, or the commission may initiate such investigation on its own motion. If the commission determines:~~

~~(1) That such abandoned well is causing or likely to cause such pollution or loss; and~~

~~(2) (A) that no person is legally responsible for the proper care and control of such well; or (B) that the person legally responsible for the care and control of such well is dead, is no longer in existence, is insolvent or cannot be found, then, after completing its investigation, and as funds are available, the commission shall plug, replug or repair such well, or cause it to be plugged, replugged or repaired, in such a manner as to prevent any further pollution or danger of pollution of any usable water strata or supply or loss of usable water, and shall remediate pollution from the well, whenever practicable and reasonable. The cost of the investigation; the plugging, replugging or repair; and the remediation shall be paid by the commission from the well plugging assurance fund or the abandoned oil and gas well fund, as appropriate.~~

~~(b) For the purposes of this section, a person who is legally responsible for the proper care and control of an abandoned well shall include, but is not limited to, one or more of the following: Any operator of a~~

~~waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water; the current or last operator of the lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well; the original operator who plugged or abandoned such well; and any person who without authorization tampers with or removes surface equipment or downhole equipment from an abandoned well.~~

~~(c) Whenever the commission determines that a well has been abandoned and is causing or is likely to cause pollution of any usable water strata or supply or loss of usable water, and whenever the commission has reason to believe that a particular person is legally responsible for the proper care and control of such well, the commission shall cause such person to come before it at a hearing held in accordance with the provisions of the Kansas administrative procedure act to show cause why the requisite care and control has not been exercised with respect to such well. After such hearing, if the commission finds that the person is legally responsible for the proper care and control of such well and that such well is abandoned, in fact, and is causing or is likely to cause pollution of any usable water strata or supply or loss of usable water, the commission may make any order or orders prescribed in K.S.A. 55-162, and amendments thereto. Proceedings for reconsideration and judicial review of any of the commission's orders may be held pursuant to K.S.A. 55-606, and amendments thereto.~~

~~(d) For the purpose of this section, any well which has been abandoned, in fact, and has not been plugged pursuant to the rules and regulations in effect at the time of plugging such well shall be and is hereby deemed likely to cause pollution of any usable water strata or supply.~~

~~(e) For the purpose of this section, the person legally responsible for the proper care and control of an abandoned well shall not include the landowner or surface owner unless the landowner or surface owner has operated or produced the well, has deliberately altered or tampered with such well thereby causing the pollution or has assumed by written contract such responsibility.~~ *(a) If the commission determines that a well is an abandoned well and has reason to believe that any person is legally responsible for the proper care and control of such well, the commission shall cause any such person to come before the commission in accordance with the provisions of the Kansas administrative procedure act. If the commission finds that any person is, in fact, legally responsible for the proper care and control of such well, the commission may issue any orders obligating any such person to plug the well or to otherwise cause such well to be brought into compliance with all rules and regulations of the commission and may order any other remedies as may be just and reasonable. Proceedings for reconsideration and judicial review of any order*

shall be conducted in the manner provided pursuant to K.S.A. 55-606, and amendments thereto.

(b) A person that is legally responsible for the proper care and control of an abandoned well shall be limited to one or more of the following:

(1) Any person causing pollution or loss of usable water through the well, including any operator of an injection well, disposal well or pressure maintenance program;

(2) the most recent operator to produce from or inject or dispose into the well, but if no production or injection has occurred, the person that caused the well to be drilled. A person shall not be legally responsible for a well pursuant to this paragraph if: (A) Such person can demonstrate that the well was physically operating or was in compliance with temporary abandonment regulations immediately before such person transferred or assigned the well to an operator with an active operator's license; and (B) a completed report of transfer was filed pursuant to commission regulations if transferred or assigned after August 28, 1997;

(3) the person that most recently accepted responsibility for the well by accepting an assignment or by signing an agreement or other written document, between private parties, in which the person accepted responsibility. Accepting an assignment of a lease, obtaining a new lease or signing an agreement or any other written document between private parties shall not in and of itself create responsibility for a well located upon the land covered thereby unless such instrument adequately identifies the well and expressly transfers responsibility for such well;

(4) the operator that most recently filed a completed report of transfer with the commission in which such operator accepted responsibility for the well or, if no completed report of transfer has been filed, the operator that most recently filed a well inventory with the commission in which such operator accepted responsibility for the well. Any modification made by commission staff of any such documents shall not alter legal responsibility unless the operator was informed of such modification and approved of the modification in writing;

(5) the operator that most recently plugged the well, if no commission funds were used; and

(6) any person that does any of the following to an abandoned well without authorization from the commission: (A) Tampers with or removes surface or downhole equipment that was physically attached to the well or inside the well bore; (B) intentionally destroys, buries or damages the well; (C) intentionally alters the physical status of the well in a manner that will result in more than a de minimis increase in plugging costs; or (D) conducts any physical operations upon the well.

(c) If the commission determines that no person is legally responsible for the proper care and control of an abandoned well, or that each legal-

ly responsible person is dead, no longer in existence, insolvent or can no longer be found, then the commission shall cause such well to be plugged as funds become available. The cost of such plugging shall be paid by the commission from the abandoned oil and gas well fund created pursuant to K.S.A. 55-192, and amendments thereto.

(d) The validity of any order issued by the commission prior to July 1, 2021, shall not be affected by the provisions of this section but shall apply to any determination of responsibility regarding any abandoned well.

(e) As used in this section, "abandoned well" means a well that is not claimed on an operator's license that is active with the commission and is unplugged, improperly plugged or no longer effectively plugged.

Sec. 7. K.S.A. 55-180 is hereby amended to read as follows: 55-180. (a) The fact that any person has initiated or supported a proceeding before the commission, or has remedied or attempted to remedy the condition of any well under the authority of this act, shall not be construed as an admission of liability or received in evidence against such person in any action or proceeding wherein responsibility for or damages from surface or subsurface pollution, or injury to any usable water or oil-bearing or gas-bearing formation, is or may become an issue; nor shall such fact be construed as releasing or discharging any action, cause of action or claim against such person existing in favor of any third person for damages to property resulting from surface or subsurface pollution, or injury to any usable water or oil-bearing or gas-bearing formation.

(b) The commission, on its own motion, may initiate an investigation into any pollution problem related to oil and gas activity. In taking such action the commission may require or perform the testing, sampling, monitoring or disposal of any source of groundwater pollution related to oil and gas activities.

(c) Any abandoned well may be plugged by any person if such: (1) Person has written consent from a surface owner of the land upon which the well is located or has other legal access to such land; and (2) plugging is done by a person licensed by the commission and in accordance with all rules and regulations of the commission.

~~(c)~~*(d)* The commission or any other person authorized by the commission who has no obligation to plug, replug or repair any abandoned well, but who does so in accordance with the provisions of this act, shall have a cause of action for the reasonable cost and expense incurred in plugging, replugging or repairing the well against any person who is legally responsible for the proper care and control of such well pursuant to the provisions of K.S.A. 55-179, and amendments thereto, and the commission or other person shall have a lien upon the interest of such obligated person in and to the oil and gas rights in the land and equipment located thereon.

~~(d)~~*(e)* Any moneys recovered by the commission in an action pursuant to subsection ~~(c)~~*(d)* 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 conservation fee fund~~, well plugging assurance fund~~ *established pursuant to K.S.A. 55-143, and amendments thereto,* or the abandoned oil and gas well fund *established pursuant to K.S.A. 55-192, and amendments thereto*, as appropriate based on the fund from which the costs incurred by the commission were paid.

(f) (1) For any well that has been abandoned for five years or more, any person who has no obligation to plug, replug or repair the well, that causes such well to be plugged may seek reimbursement from the abandoned oil and gas well fund created pursuant to K.S.A. 55-192, and amendments thereto. The commission shall adopt rules and regulations for determining whether, how and to what extent a request for reimbursement shall be granted.

(2) The provisions of this subsection shall not entitle any person to receive reimbursement for the plugging of any abandoned well that has been abandoned for five years or more unless such reimbursement is approved pursuant to the rules and regulations established by the commission for such purpose.

(g) No person shall become legally responsible for the care and control of any well solely on the basis of having appropriately plugged a well pursuant to this section.

(h) As used in this section, "abandoned well" means a well that is not claimed on an operator's license that is active with the commission and is unplugged, improperly plugged or no longer effectively plugged.

Sec. 8. K.S.A. 55-192 is hereby amended to read as follows: 55-192. (a) There is hereby established in the state treasury the abandoned oil and gas well fund.

(b) Moneys in the abandoned oil and gas well fund shall be used only for the purpose of paying the costs of: (1) Investigation and remediation of contamination sites; (2) investigation of abandoned wells, and their well sites~~, drilling of which began before July 1, 1996; and~~ (3) plugging, replugging or repairing abandoned wells~~,~~ and remediation of the well sites~~, drilling of which began before July 1, 1996,~~ in accordance with a prioritization schedule adopted by the commission and based on the degree of threat to public health or the environment*; and (4) any reimbursement authorized by the commission pursuant to K.S.A. 55-180, and amendments thereto*. No moneys credited to the fund shall be used to pay administrative expenses of the commission or to pay compensation or other expenses of employing personnel to carry out the duties of the commission.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the abandoned oil and gas well fund interest earnings based on: (1) The average daily balance of moneys in the abandoned oil and gas well fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(d) All expenditures from the abandoned oil and gas well 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 chairperson of the state corporation commission or a person designated by the chairperson.

(e) On July 1, 2021: (1) The director of accounts and reports shall transfer all moneys in the well plugging assurance fund established pursuant to K.S.A. 55-166, prior to its repeal, to the abandoned oil and gas well fund; (2) all liabilities of the well plugging assurance fund are hereby transferred to and imposed on the abandoned oil and gas well fund; and (3) the well plugging assurance fund is hereby abolished.

Sec. 9. 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. 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.

(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 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~~ *abandoned oil and gas well fund*, K.S.A. 55-155, 55-176, *55-192*, 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. 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. 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 instrument

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. 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. 2020 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~~ *that* are wrongfully or by mistake placed in the general fund shall constitute a proper charge against such general fund. 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. 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 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. 10. K.S.A. 55-150, 55-161, 55-163, 55-166, 55-167, 55-168, 55-178, 55-179, 55-180, 55-192 and 75-3036 and K.S.A. 2020 Supp. 55-155 and 55-193 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 9, 2021.

CHAPTER 29

Senate Substitute for HOUSE BILL No. 2072

AN ACT concerning the state corporation commission; relating to certain public utilities; authorizing the securitization of certain generating facilities and qualified extraordinary costs; providing for the approval and issuance of securitized utility tariff bonds; enacting the utility financing and securitization act; amending K.S.A. 66-1239 and K.S.A. 2020 Supp. 84-9-109 and repealing the existing sections.

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

New Section 1. (a) Sections 1 through 14, and amendments thereto, shall be known and may be cited as the utility financing and securitization act.

(b) As used in sections 1 through 14, and amendments thereto:

(1) "Act" means the utility financing and securitization act.

(2) "Adjustment mechanism" means a formula-based rate adjustment, or true-up process approved by the commission for making, at least annually, expeditious periodic adjustments to securitized utility tariff charges, subject to timely commission review to confirm compliance, that customers are required to pay, as authorized in a financing order. The "adjustment mechanism" is utilized to make necessary corrections to adjust for over-collection or under-collection of such securitized utility tariff charges or otherwise to ensure the timely and complete payment of the securitized utility tariff bonds and all other financing costs and other required amounts and charges payable in connection with the securitized utility tariff bonds.

(3) "Ancillary agreement" means any bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support.

(4) "Assignee" means a corporation, limited liability company, general partnership, limited partnership, public authority, trust, financing entity or other entity to which a public utility assigns, sells or transfers, other than as security, all or a portion of its interest in, or right to, securitized utility tariff property.

(5) "Bondholder" means any holder or owner of a securitized utility tariff bond.

(6) "Code" means the Kansas uniform commercial code.

(7) "Commission" means the state corporation commission.

(8) "Electric public utility" means the same as defined in K.S.A. 66-101a, and amendments thereto, and includes a for-profit electric utility whose retail rates are subject to the jurisdiction of the commission. "Electric public utility" does not include a cooperative that has opted to deregulate pursuant to K.S.A. 66-104d, and amendments thereto, or an electric utility owned by one or more such cooperatives.

(9) (A) "Energy transition costs," at the option of and upon application by an electric public utility, and as approved by the commission, includes:

(i) Any of the pretax costs that the electric public utility has incurred or will incur that are caused by, associated with or remain as a result of a retired, abandoned, to be retired or to be abandoned electric generating facility that is the subject of an application for a financing order filed under this act where such early retirement or abandonment is deemed reasonable and prudent by the commission through a final order issued by the commission. As used in this paragraph, "pretax costs," if determined reasonable by the commission and not inconsistent with a commission order granting predetermination under K.S.A. 66-1239, and amendments thereto, regarding retirement or abandonment of the subject generating facility, include, but are not limited to, the undepreciated investment in the retired or abandoned electric generating facility and any facilities ancillary thereto or used in conjunction therewith, costs of decommissioning and restoring the site of the electric generating facility, other applicable capital and operating costs, accrued carrying charges and deferred expenses. Such "pretax costs" shall be reduced by applicable tax benefits of accumulated and excess deferred income taxes, insurance, scrap and salvage proceeds and include the cost of retiring any existing indebtedness, fees, costs and expenses to modify existing debt agreements or for waivers or consents related to existing debt agreements; and

(ii) "pretax costs" that an electric public utility has previously incurred related to the retirement of such an electric generating facility occurring before the effective date of this act.

(B) "Energy transition costs" does not include any monetary penalty, fine or forfeiture assessed against an electric public utility by a governmental agency or court under a federal or state statute or rule or regulation.

(10) "Financing costs" includes, if authorized by the commission in a financing order, costs to issue, service, repay or refinance securitized utility tariff bonds, whether incurred or paid upon issuance of the securitized utility tariff bonds or over the life of the securitized utility tariff bonds, including:

(A) Principal, interest and acquisition, defeasance or redemption premiums payable on securitized utility tariff bonds;

(B) any payment required under an ancillary agreement and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement or other financing documents pertaining to securitized utility tariff bonds;

(C) any other cost related to issuing, supporting, repaying, refunding and servicing securitized utility tariff bonds, including, but not limited to, servicing fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, financial or structuring adviser fees, administrative

fees, placement and underwriting fees, independent director and manager fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs and any other costs necessary to otherwise ensure the timely payment of securitized utility tariff bonds or other amounts or charges payable in connection with securitized utility tariff bonds, including costs related to obtaining the financing order;

(D) any taxes and license fees or other fees imposed on the revenues generated from the collection of the securitized utility tariff charges or otherwise resulting from the collection of securitized utility tariff charges, whether paid, payable or accrued;

(E) any state and local taxes, franchise fees, gross receipts and other taxes or similar charges, including commission assessment fees, whether paid, payable or accrued; and

(F) any costs of the commission needed to perform the commission's responsibilities under this act, including costs to engage counsel and a financial adviser.

(11) "Financing order" means an order from the commission pursuant to this act that authorizes the:

(A) Issuance of securitized utility tariff bonds in one or more series;

(B) imposition, collection and periodic adjustments of a securitized utility tariff charge;

(C) creation of securitized utility tariff property; and

(D) sale, assignment or transfer of securitized utility tariff property to an assignee.

(12) "Financing party" means bondholders and trustees, collateral agents, any party under an ancillary agreement or any other person acting for the benefit of bondholders.

(13) "Financing statement" means the same as defined in K.S.A. 84-9-102, and amendments thereto.

(14) "Natural gas public utility" means the same as defined in K.S.A. 66-1,200, and amendments thereto.

(15) "Nonbypassable" means that the payment of a securitized utility tariff charge may not be avoided by any existing or future retail customer including special contract customers as provided in section 2, and amendments thereto, located within a public utility service area, as such service area existed on the date of the financing order, or, if the financing order so provides, as such service area may be expanded, even if the customer elects to purchase electricity or natural gas from a supplier other than the electric or natural gas utility, or its successors or assignees, or receives retail electric or natural gas service from another electric or natural gas service from another electric or natural gas utility operating in the same service area.

(16) "Pledgee" means a financing party to which an electric or natural gas public utility, or its successors or assignees, mortgages, negotiates, pledges or creates a security interest or lien on all or any portion of its interest in or right to securitized utility tariff property.

(17) "Public utility" means an electric public utility or a natural gas public utility whose rates are subject to the jurisdiction of the commission.

(18) "Qualified extraordinary costs" includes, at the option of and upon application by a public utility and as approved by the commission, costs that the public utility has incurred before, on or after the effective date of this act of an extraordinary nature that would cause extreme customer rate impacts if recovered through customary rate-making, including, but not limited to, purchases of gas supplies, transportation costs, fuel and power costs, including carrying charges incurred during anomalous weather events.

(19) (A) "Securitized utility tariff bonds" means bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership or other evidences of indebtedness or ownership that have a maturity date as determined reasonable by the commission, but not later than 32 years from the issue date, that are issued by an:

(i) Electric public utility or an assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance or refinance commission-approved energy transition costs and financing costs and that are secured by or payable from securitized utility tariff property; or

(ii) electric or natural gas public utility or assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance or refinance commission-approved qualified extraordinary costs and financing costs that are secured by or payable from securitized utility tariff property.

(B) If certificates of participation or ownership are issued, references in this section to principal, interest or premium shall be construed to refer to comparable amounts under those certificates.

(20) "Securitized utility tariff charge" means the amounts authorized by the commission to provide a source of revenue solely to repay, finance or refinance securitized utility tariff bonds and financing costs and that are nonbypassable charges imposed on, and part of all retail customer bills, including bills to special contract customers as provided in section 2, and amendments thereto, collected by an electric or natural gas public utility or its successors or assignees, or a collection agent, in full, separate and apart from the electric or natural gas public utility's base rates. "Securitized utility tariff charges" are paid by all existing or future retail customers receiving electrical or natural gas service from the public utility or its successors or assignees under commission-approved rate schedules or un-

der special contracts, as provided in section 2, and amendments thereto, even if a retail customer elects to purchase electricity or natural gas from an alternative electricity or natural gas supplier following a fundamental change in regulation of public utilities in this state.

(21) "Securitized utility tariff costs" means either energy transition costs or qualified extraordinary costs.

(22) "Securitized utility tariff property" includes:

(A) All rights and interests of a public utility, its successor or assignee under a financing order, including the right to impose, bill, charge, collect and receive securitized utility tariff charges authorized under the financing order and to obtain periodic adjustments to such charges authorized under this section and as provided in the financing order; and

(B) all revenues, collections, claims, rights to payments, payments, money or proceeds arising from the rights and interests specified in the financing order, regardless of whether such revenues, collections, claims, rights to payment, payments, money or proceeds are imposed, billed, received, collected or maintained together with or commingled with other revenues, collections, rights to payment, payments, money or proceeds.

(23) "Special contract" means the terms of a contract governing the supply of electricity that has been approved by the commission that is not included in generally applicable rate schedules.

(24) "Successor" means, with respect to any legal entity, another legal entity that succeeds by operation of law to the rights and obligations of the first legal entity pursuant to any bankruptcy, reorganization, restricting, other insolvency proceeding, merger, acquisition, consolidation or sale or transfer of assets, regardless of the reason such event occurs.

New Sec. 2. (a) (1) An electric public utility, in its sole discretion, may apply to the commission for a financing order as authorized by this act for the recovery of energy transition costs.

(2) In applying for the financing order, the electric public utility may file an application to issue securitized utility tariff bonds in one or more series, impose, charge and collect securitized utility tariff charges and create securitized utility tariff property related to the recovery of energy transition costs.

(3) Within 25 days after a complete application is filed, the commission shall establish a procedural schedule that requires the commission to issue a decision on the application not later than 135 days from the date a complete application was filed.

(4) The commission shall take final action to approve, approve subject to conditions the commission considers appropriate and that are authorized by this section or deny any application for a financing order in a final order issued in accordance with the commission's rules for addressing applications within 135 days of receiving a complete application as

authorized by this act. Such final order shall be subject to judicial review in accordance with K.S.A. 66-118a through 66-118o, and amendments thereto, and shall be deemed as arising from a rate hearing pursuant to K.S.A. 66-118a(b), and amendments thereto.

(5) As a prerequisite of filing an application, an electric public utility shall have obtained an order from the commission under K.S.A. 66-1239, and amendments thereto, finding retirement or abandonment of the subject generating facility to be reasonable.

(b) (1) A public utility, in its sole discretion, may apply to the commission for a financing order as authorized by this act for the recovery of qualified extraordinary costs.

(2) In applying for the financing order, the public utility may file an application to issue securitized utility tariff bonds in one or more series, to impose, charge and collect securitized utility tariff charges and create securitized utility tariff property related to the recovery of qualified extraordinary costs.

(3) Within 25 days after a complete application is filed, the commission shall establish a procedural schedule that requires the commission to issue a decision on the application not later than 180 days from the date a complete application was filed.

(4) The commission shall take final action to approve, approve subject to conditions the commission considers appropriate and that are authorized by this section or deny any application for the recovery of qualified extraordinary costs and a financing order in a final order issued in accordance with the commission's rules for addressing applications within 180 days of receiving a complete application as authorized by this act. Such final order shall be subject to judicial review in accordance with K.S.A. 66-118a through 66-118o, and amendments thereto, and shall be deemed as arising from a rate hearing pursuant to K.S.A. 66-118a(b), and amendments thereto.

(c) The application shall include:

(1) (A) A description of the electric generating facility or facilities that the electric public utility has retired or abandoned, or proposes to retire or abandon, prior to the date that all undepreciated investment relating thereto has been recovered through rates and the reasons for undertaking such early retirement or abandonment. If the electric public utility is subject to a separate commission order or proceeding relating to such retirement or abandonment or as described in subsection (a)(5), the application shall include a description of the order or other proceeding; or

(B) a description of the qualified extraordinary costs that the public utility proposes to recover and how customary rate-making treatment of such costs would result in extreme customer rate impacts;

(2) a description of the securitized utility tariff costs that the applicant proposes to recover with the proceeds of the securitized utility tariff bonds;

(3) (A) an indicator of whether the public utility proposes to finance all or a portion of the securitized utility tariff costs using securitized utility tariff bonds. If the public utility proposes to finance a portion of the securitized utility tariff costs, the public utility shall identify the specific portion in the application;

(B) by electing not to finance all or any portion of such securitized utility tariff costs using securitized utility tariff bonds, a public utility shall not be deemed to waive its right to recover or request recovery of such costs pursuant to a separate proceeding with the commission;

(4) an estimate of the financing costs related to the securitized utility tariff bonds;

(5) an estimate of the securitized utility tariff charges necessary to recover the securitized utility tariff costs and all financing costs, the period for recovery of such costs and a description of the proposed financing structure, including the proposed scheduled final payment dates and final maturity of the securitized utility tariff bonds;

(6) the proposed methodology for allocating the revenue requirement for the securitized utility tariff charge among customer classes, including special contract customers, as provided in this section;

(7) a description of the nonbypassable securitized utility tariff charge required to be paid by all customers within the public utility's service area for recovery of securitized utility tariff costs and a proposed adjustment mechanism reflecting the allocation methodology referred to in paragraph (6);

(8) an estimate of the timing of the potential issuance of the securitized utility tariff bonds or series of bonds;

(9) (A) in an application relating to energy transition costs, a comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the traditional method of financing and recovering the undepreciated investment of facilities that may become energy transition costs from customers. The comparison shall demonstrate that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide net quantifiable rate benefits to customers or would avoid or mitigate rate impacts to customers; or

(B) in an application relating to qualified extraordinary costs, a comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of traditional meth-

ods of financing and recovery of such qualified extraordinary costs. The comparison shall demonstrate that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide net quantifiable rate benefits to customers or would avoid or mitigate rate impacts to customers;

(10) (A) specify a future rate-making process to reconcile any difference between the securitized utility tariff costs financed by securitized utility tariff bonds and the final securitized utility tariff costs incurred by the public utility or the assignee;

(B) a statement that the reconciliation may affect the public utility's rates or any rider but shall not affect the securitized utility tariff bonds, the securitized utility tariff property or the associated securitized utility tariff charges paid by customers; and

(11) direct testimony and schedules supporting the application.

(d) Following notice and hearing on an application for a financing order, as required by rules and regulations adopted by the commission, the commission may issue a financing order if the commission finds that the:

(1) Securitized utility tariff costs described in the application are just and reasonable; and

(2) proposed issuance of securitized utility tariff bonds and the imposition and collection of securitized utility tariff charges are expected to provide net quantifiable rate benefits to customers when compared to the costs that would result from the application of the traditional method of financing and recovering the securitized utility tariff costs with respect to energy transition costs or that would avoid or mitigate rate impacts to customers.

(e) A financing order issued by the commission in response to an application filed by a public utility shall include the following elements:

(1) The amount of securitized utility tariff costs to be financed using securitized utility tariff bonds. The commission shall describe and estimate the amount of financing costs and securitized utility tariff costs that may be recovered through securitized utility tariff charges and specify the period over which securitized utility tariff costs and financing costs may be recovered, that shall not be earlier than the date of the final legal maturity of securitized utility tariff bonds to be issued;

(2) (A) an approved customer billing mechanism for securitized utility tariff charges, including a specific methodology for allocating the necessary securitized utility tariff charges among the different customer classes including special contract customers and a finding that the resulting securitized utility tariff charges will be just and reasonable, except that the amount of securitized utility tariff charges allocated to special contract customers in connection with the securitization of energy transition costs shall not exceed the rate benefits from the retirement or abandonment of

the subject electric utility generating assets that are assigned or allocated to special contract customers. The securitized utility tariff charges allocated to special contract customers as a result of a financing order regarding a retirement or abandonment shall be offset by net quantifiable rate benefits of at least the same amount. The initial allocation of securitized utility tariff charges shall remain in effect until the public utility files a general base rate proceeding; and

(B) once the commission's order regarding the general base rate proceeding becomes final, all subsequent applications of an adjustment mechanism regarding securitized utility tariff charges shall incorporate changes in the allocation of costs to customers as detailed in the commission's order from the public utility's most recent general base rate proceeding;

(3) a finding that the proposed issuance of securitized utility tariff bonds and the imposition and collection of a securitized utility tariff charge are expected to provide net quantifiable rate benefits to customers as compared to the traditional methods of financing and recovering securitized utility tariff costs from customers or would avoid or mitigate rate impacts to customers;

(4) an approved plan for the public utility, by means other than on the monthly bill, to provide information regarding the benefits of securitization obtained for customers through the financing order;

(5) a finding that the structuring, pricing and financing costs of the securitized utility tariff bonds are expected to result in the lowest securitized utility tariff charges, consistent with market conditions at the time the securitized utility tariff bonds are priced and the terms of the financing order;

(6) a requirement that, for so long as the securitized utility tariff bonds are outstanding and until all financing costs have been paid in full, the imposition and collection of securitized utility tariff charges authorized under a financing order shall be nonbypassable;

(7) an adjustment mechanism;

(8) a description of the securitized utility tariff property that is, or shall be, created in favor of a public utility, or its successors and assignees, and that shall be used to pay and secure the payment of securitized utility tariff bonds and all financing costs authorized in the financing order;

(9) a statement specifying the degree of flexibility to be afforded to the public utility in establishing the terms and conditions of the securitized utility tariff bonds, including, but not limited to, repayment schedules, expected interest rates and other financing costs;

(10) authorization for the applicant public utility to finance securitized utility tariff costs through the issuance of one or more series of securitized utility tariff bonds;

(11) a requirement that, after the final terms of an issuance of securitized utility tariff bonds have been established and before the issuance of securitized utility tariff bonds, the public utility determines the resulting initial securitized utility tariff charge is in accordance with the financing order and that such initial securitized utility tariff charge be final and effective upon the issuance of such securitized utility tariff bonds without further commission action so long as the securitized utility tariff charge is consistent with the financing order;

(12) a method of tracing funds collected as securitized utility tariff charges, or other proceeds of securitized utility tariff property, demonstrating that such method shall be deemed the method of tracing such funds and determining the identifiable cash proceeds of any securitized utility tariff property subject to a financing order under applicable law;

(13) a statement specifying a future rate-making process to reconcile any differences between the actual securitized utility tariff costs financed by securitized utility tariff bonds and the final securitized utility tariff costs incurred by the utility or assignee provided that any such reconciliation shall not affect the amount of securitized utility tariff bonds or the associated security tariff charges paid by customers;

(14) a procedure that allows the public utility to earn a return, at the cost of capital authorized from time to time by the commission in the public utility's rate proceedings, on any moneys advanced by the public utility to fund reserves, if any, or capital accounts established under the terms of any indenture, ancillary agreement or other financing documents pertaining to the securitized utility tariff bonds;

(15) in a financing order granting authorization to recover energy transition costs by issuing securitized utility tariff bonds, a procedure for the treatment of accumulated deferred income taxes and excess deferred income taxes in connection with the retired or abandoned, or to be retired or abandoned, electric generating facility. The accumulated deferred income taxes, including excess deferred income taxes, shall be excluded from the rate base in future rate cases and the net tax benefits relating to amounts that will be recovered through issuance of securitized utility tariff bonds shall be credited to retail customers by reducing the amount of such securitized utility tariff bonds that would otherwise be issued. The customer credit shall include the net present value of the tax benefits calculated using a discount rate equal to the expected interest rate of the securitized utility tariff bonds for the estimated accumulated and excess deferred income taxes at the time of securitization, including timing differences created by the issuance of securitized utility tariff bonds amortized over the period of the bonds multiplied by the expected interest rate on such securitized utility tariff bonds;

(16) in the case of securitized utility tariff bonds issued to recover energy transition costs, provisions that specify the timing of rate-making and

regulatory accounting actions required by the financing order to protect the interests of customers and the electric public utility, limited to the following requirements that, to the extent that the commission:

(A) Has issued an order granting predetermination under K.S.A. 66-1239, and amendments thereto, prescribing rate-making parameters or regulatory accounting for retirement or abandonment of the subject electric public utility generating assets, the electric public utility shall be permitted to implement and effectuate such rate-making parameters or regulatory accounting mechanisms; and

(B) has not issued an order granting predetermination under K.S.A. 66-1239, and amendments thereto, prescribing rate-making parameters or regulatory accounting to credit customers with the benefits from retirement of the subject electric public utility generating assets, and the commission shall address such matters in the financing order and customers shall receive the benefits as determined by the commission order simultaneously with the inception of the collection of securitized utility tariff charges;

(17) a date, not earlier than one year after the date that the financing order is no longer subject to appeal, when the authority to issue securitized utility tariff bonds granted in such financing order shall expire; and

(18) any other conditions that the commission deems appropriate and that are consistent with this section.

(f) A financing order issued to a public utility shall permit and may require the creation of the public utility's securitized utility tariff property that is conditioned upon the sale or other transfer of the securitized utility tariff property to an assignee and the pledge of the securitized utility tariff property to secure securitized utility tariff bonds.

(g) If the public utility has been issued a financing order, the public utility shall file with the commission, at least annually, an application or letter applying the adjustment mechanism based on estimates of consumption for each rate class and other mathematical factors and requesting administrative approval to make the applicable adjustments. The commission's review of the filing shall be limited to determining if any mathematical or clerical errors are present in the application of the adjustment mechanism relating to the appropriate amount of any over-collection or under-collection of securitized utility tariff charges and the amount of an adjustment. The adjustments shall ensure the recovery of revenue is sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs or redemption premium and other fees, costs and charges with respect to the securitized utility tariff bonds approved under the financing order. Within 30 days after receiving a public utility's application or letter pursuant to this subsection, the commission shall either approve the application or letter or inform the public utility of any

mathematical or clerical errors present in its calculation. If the commission informs the public utility of the presence of mathematical or clerical errors in its calculation, the public utility may correct its error and refile its request. The time frames previously described in this subsection shall apply to a refiled request.

(h) (1) Upon the transfer of the securitized utility tariff property to an assignee or the issuance of securitized utility tariff bonds authorized thereby, whichever occurs first, a financing order shall become irrevocable. Except for changes made pursuant to the adjustment mechanism authorized in this section, the commission shall not amend, modify or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate or otherwise adjust securitized utility tariff charges approved in the financing order.

(2) After the issuance of a financing order, the public utility shall retain sole discretion regarding the decision to cause securitized utility tariff bonds to be issued.

(3) The commission, in a financing order and subject to the issuance advice letter process under paragraph (4), shall afford the public utility flexibility in establishing the terms and conditions for the securitized utility tariff bonds to accommodate changes in market conditions, including repayment schedules, interest rates, financing costs, collateral requirements, required debt service and other reserves and the ability of the public utility, at its option, to effect a series of issuances of securitized utility tariff bonds and correlated assignments, sales, pledges or other transfers of securitized utility tariff property. Any changes made under this subsection to terms and conditions for the securitized utility tariff bonds shall be in conformance with the financing order.

(4) As the actual structure and pricing of the securitized utility tariff bonds will be unknown at the time the financing order is issued, the public utility that intends to cause the issuance of such bonds shall provide to the commission, prior to the issuance of each series of bonds, an issuance advice letter following the determination of the final terms of such series of bonds not later than one day after the pricing of the securitized utility tariff bonds. The commission shall have the authority to designate a representative from commission staff, who may be advised by a financial adviser contracted with the commission, to observe all facets of the process undertaken by the public utility to place the securitized utility tariff bonds to market so the commission's representative can be prepared, if requested, to provide the commission with an opinion on the reasonableness of the pricing, terms and conditions of the securitized utility tariff bonds on an expedited basis. The form of such issuance advice letter shall be included in the financing order and shall indicate the final structure of the securitized utility tariff bonds and provide the best available estimate

of total ongoing financing costs. The issuance advice letter shall report the initial securitized utility tariff charges and other information specific to the securitized utility tariff bonds to be issued, as the commission may require. Unless an earlier date is specified in the financing order, the public utility may proceed with the issuance of the securitized utility tariff bonds unless, prior to noon on the fourth business day after the commission receives the issuance advice letter, the commission issues a disapproval letter directing that the bonds as proposed shall not be issued and the basis for that disapproval. The financing order may provide such additional provisions relating to the issuance advice letter process as the commission considers appropriate and as are authorized by this section.

(5) In performing the responsibilities of this section, the commission may engage a financial adviser and counsel as the commission deems necessary. All expenses associated with such services shall be included as part of the financing costs of the securitized utility tariff bonds and shall be included in the securitized utility tariff charge.

(6) If a public utility's application for a financing order is denied or withdrawn, or for any reason securitized utility tariff bonds are not issued, any costs of retaining a financial adviser and counsel on behalf of the commission shall be paid by the applicant public utility and shall be eligible for full recovery by the public utility, including carrying costs, in the public utility's future rates.

(7) An adversely affected party may petition for judicial review of a financing order in accordance with K.S.A. 66-118a and 77-607, and amendments thereto.

(i) At the request of a public utility, the commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring or refunding securitized utility tariff bonds issued pursuant to the original financing order if the commission finds that the subsequent financing order satisfies all of the criteria specified in this section for a financing order. Effective upon retirement of the refunded securitized utility tariff bonds and the issuance of new securitized utility tariff bonds, the commission shall adjust the related securitized utility tariff charges accordingly.

(j) (1) A financing order remains in effect and securitized utility tariff property under the financing order continues to exist until securitized utility tariff bonds issued pursuant to the financing order have been paid in full or defeased and, in each case, all commission-approved financing costs of such securitized utility tariff bonds have been recovered in full.

(2) A financing order issued to a public utility remains in effect and unabated notwithstanding the reorganization, bankruptcy or other insolvency proceedings, merger or sale of the electric public utility or its successors or assignees.

New Sec. 3. (a) The commission shall not, in exercising its powers and carrying out its duties regarding any matter within its authority, consider the:

(1) Securitized utility tariff bonds issued pursuant to a financing order to be the debt of the public utility other than for federal and state income tax purposes;

(2) securitized utility tariff charges paid under the financing order to be the revenue of the public utility for any purpose; or

(3) securitized utility tariff costs or financing costs specified in the financing order to be the costs of the public utility.

(b) The commission shall not determine any action taken by a public utility that is consistent with the financing order to be unjust or unreasonable, and K.S.A. 66-1a01, and amendments thereto, shall not apply to the issuance of securitized utility tariff bonds.

(c) No public utility shall be required to file an application for a financing order under this section or otherwise utilize this section. The commission shall not order or otherwise directly or indirectly require a public utility to use securitized utility tariff bonds to recover securitized utility tariff costs or to finance any project, addition, plant, facility, extension, capital improvement, equipment or any other expenditure. After the issuance of a financing order, the public utility shall retain sole discretion regarding the decision to cause the securitized utility tariff bonds to be issued, including the right to defer or postpone such sale, assignment, transfer or issuance. Nothing shall prevent the public utility from abandoning the issuance of securitized utility tariff bonds under the financing order by filing with the commission a statement of abandonment and the reasons therefor.

(d) Securitized utility tariff bonds authorized under this act shall not be subject to K.S.A. 66-125, and amendments thereto.

(e) The commission shall not refuse to allow a public utility to recover securitized utility tariff costs in an otherwise permissible fashion, or refuse or condition authorization or approval of the issuance and sale by a public utility of securities or the assumption by the public utility of liabilities or obligations, solely because of the potential availability of securitized utility tariff bond financing.

(f) The commission shall not, directly or indirectly, utilize or consider the debt reflected by the securitized utility tariff bonds in establishing the public utility's capital structure used to determine any regulatory matter, including, but not limited to, the public utility's revenue requirement used to set its rates.

(g) The commission shall not, directly or indirectly, consider the existence of securitized utility tariff bonds or the potential use of securitized utility tariff bond financing in determining the public utility's authorized rate of return used to determine the public utility's revenue requirement used to set its rates.

(h) The commission shall not approve an application for a financing order associated with an asset retirement or abandonment if the application does not establish that the securitization of the specified retired or abandoned generating facility provides net quantifiable rate benefits to customers as required under this act.

New Sec. 4. The bills of a public utility that has obtained a financing order and caused securitized utility tariff bonds to be issued shall comply with the provisions of this section, except the failure of a public utility to comply with this section shall not invalidate, impair or otherwise affect any financing order, securitized utility tariff property, securitized utility tariff charge or securitized utility tariff bonds. The public utility shall:

(a) Explicitly reflect that a portion of the charges on such bill represents securitized utility tariff charges approved in a financing order issued to the public utility and, if the securitized utility tariff property has been transferred to an assignee, such bill shall include a statement to the effect that the assignee is the owner of the rights to the securitized utility tariff charges and that the public utility or other entity, if applicable, is acting as a collection agent or servicer for the assignee. The tariff applicable to the customer shall indicate the securitized utility tariff charge and the ownership of the charge; and

(b) include the securitized utility tariff charge on each customer's bill as a separate line item and include both the rate and the amount of the charge on each bill.

New Sec. 5. (a) All securitized utility tariff property specified in a financing order constitutes an existing, present intangible property right or interest therein, notwithstanding that the imposition and collection of securitized utility tariff charges depends on the public utility to which the financing order is issued performing its servicing functions relating to the collection of securitized utility tariff charges and on future electricity or natural gas consumption. Such property exists:

(1) Regardless of whether revenues or proceeds arising from the property have been billed, have accrued or have been collected; and

(2) notwithstanding the fact that the value or amount of the property is dependent on the future provision of service to customers by the public utility or its successors or assignees and the future consumption of electricity or natural gas by customers.

(b) Securitized utility tariff property specified in a financing order shall exist until securitized utility tariff bonds issued pursuant to the financing order have been paid in full and all financing costs and other costs of such securitized utility tariff bonds have been recovered in full.

(c) All or any portion of securitized utility tariff property specified in a financing order issued to a public utility may be transferred, sold, conveyed or assigned to a successor or assignee that is wholly owned, directly

or indirectly, by the public utility and created for the limited purpose of acquiring, owning or administering securitized utility tariff property or issuing securitized utility tariff bonds under the financing order. All or any portion of securitized utility tariff property may be pledged to secure securitized utility tariff bonds issued pursuant to the financing order, amounts payable to financing parties and to counterparties under any ancillary agreements and other financing costs. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of securitized utility tariff property by a public utility, or an affiliate of the public utility, to an assignee to the extent previously authorized in a financing order shall not require the prior consent and approval of the commission.

(d) If a public utility defaults on any required remittance of securitized utility tariff charges arising from securitized utility tariff property specified in a financing order, a court, upon application by an interested party, and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the securitized utility tariff property to the financing parties or their assignees. Any such financing order shall remain in full force and effect notwithstanding any reorganization, bankruptcy or other insolvency proceedings with respect to the public utility or its successors or assignees.

(e) The interest of a transferee, purchaser, acquirer, assignee or pledgee in securitized utility tariff property specified in a financing order issued to a public utility, and in the revenue and collections arising from that property, is not subject to setoff, counterclaim, surcharge or defense by the public utility or any other person or in connection with the reorganization, bankruptcy or other insolvency of the public utility or any other entity.

(f) Any successor to a public utility, whether pursuant to any reorganization, bankruptcy or other insolvency proceeding or whether pursuant to any merger or acquisition, sale or other business combination, or transfer by operation of law, as a result of the public utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as, the public utility under the financing order in the same manner and to the same extent as the public utility, including collecting and paying to the person entitled to receive the revenues, collections, payments or proceeds of the securitized utility tariff property. Nothing in this section shall be construed to limit or impair any authority of the commission concerning the transfer or succession of interests of public utilities.

(g) Securitized utility tariff bonds shall be nonrecourse to the credit or any assets of the public utility other than the securitized utility tariff property specified in the financing order and any rights under any ancillary agreement.

New Sec. 6. (a) The creation, perfection, priority and enforcement of any security interest in securitized utility tariff property to secure the repayment of the principal and interest and other amounts payable in respect of securitized utility tariff bonds, amounts payable under any ancillary agreement and other financing costs are governed by this section and sections 8 and 9, and amendments thereto, and not by the provisions of the code, except as otherwise provided in this section and sections 8 and 9, and amendments thereto.

(b) A security interest in securitized utility tariff property is created, valid and binding at the latest of the time:

(1) The financing order is issued;

(2) a security agreement is executed and delivered by the debtor granting such security interest;

(3) the debtor has rights in such securitized utility tariff property or the power to transfer rights in such securitized utility tariff property; or

(4) when value is received for the securitized utility tariff property.

(c) The description of securitized utility tariff property in a security agreement is sufficient if the description refers to this section and the financing order creating the securitized utility tariff property. A security interest shall attach as provided in subsection (b) without physical delivery of collateral or other act.

(d) Upon filing of a financing statement with the office of the secretary of state, as provided in section 9, and amendments thereto, the security interest in securitized utility tariff property shall be perfected against all parties having claims of any kind in tort, contract or otherwise against the person granting the security interest and regardless of whether the parties have notice of the security interest. Without limitation, upon such filing, a security interest in the securitized utility tariff property shall be perfected against all claims of lien creditors and shall have priority over all competing security interests and other claims other than any security interest previously perfected in accordance with this section.

(e) The priority of a security interest in securitized utility tariff property is not affected by the commingling of securitized utility tariff charges with other amounts. A pledgee or secured party shall have a perfected security interest in the amount of all securitized utility tariff charges that are deposited in any cash or deposit account of the qualifying public utility in which securitized utility tariff charges have been commingled with other funds, and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party.

(f) No application of the adjustment mechanism pursuant to section 2, and amendments thereto, shall affect the validity, perfection or priority of a security interest in or transfer of securitized utility tariff property.

(g) If a default occurs under securitized utility tariff bonds that are secured by a security interest in securitized utility tariff property, the financing parties or their representatives may exercise the rights and remedies available to a secured party under the code, including the rights and remedies available under part 6 of article 9 of the code, and amendments thereto, as if they were secured parties with a perfected and prior lien under the code. The commission may also order amounts arising from securitized utility tariff charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply. On application by or on behalf of the financing parties, the district court of the county where the public utility's headquarters is located shall order the sequestration and payment to such financing parties of revenues arising from the securitized utility tariff charges.

New Sec. 7. (a) Any sale, assignment or other transfer of securitized utility tariff property shall be an absolute transfer and true sale of, and not a pledge of or secured transaction relating to, the seller's right, title and interest in, to and under the securitized utility tariff property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer other than for federal and state income tax purposes. For all purposes other than federal and state income tax purposes, the parties' characterization of a transaction as a sale of an interest in securitized utility tariff property shall be conclusive that the transaction is a true sale and that ownership has passed to the party characterized as the purchaser, regardless of whether the purchaser has possession of any documents evidencing or pertaining to such interest in securitized utility tariff property. A sale or similar transfer of an interest in securitized utility tariff property may occur only when:

(1) The financing order creating the securitized utility tariff property has become effective;

(2) the documents evidencing the transfer of securitized utility tariff property have been executed by the assignor and delivered to the assignee; and

(3) value is received for the securitized utility tariff property. After such a transaction, the securitized utility tariff property shall not be subject to any claims of the transferor or the transferor's creditors, other than creditors holding a prior security interest in the securitized utility tariff property perfected in accordance with section 6, and amendments thereto.

(b) The characterization of the sale, assignment or other transfer as an absolute transfer and true sale and the corresponding characterization of the property interest of the purchaser shall not be affected or impaired by the:

(1) Commingling of funds from securitized utility tariff charges with other amounts;

(2) the retention by the seller of:

(A) A partial or residual interest, including an equity interest, in the securitized utility tariff property, whether direct or indirect or whether subordinate or otherwise; or

(B) the right to recover costs associated with taxes, franchise fees or license fees imposed on the collection of securitized utility tariff charges;

(3) any recourse that the purchaser may have against the seller;

(4) any indemnification rights, obligations or repurchase rights made or provided by the seller;

(5) the obligation of the seller to collect securitized utility tariff charges on behalf of an assignee;

(6) the transferor acting as the servicer of the securitized utility tariff charges or the existence of any contract that authorizes or requires the public utility, to the extent that any interest in securitized utility tariff property is sold or assigned, to contract with the assignee or any financing party so that the public utility will continue to operate the public utility system to provide service to the assignee's customers, collect amounts relating to the securitized utility tariff charges for the benefit and account of such assignee or financing party and account for and remit such amounts to or for the account of such assignee or financing party;

(7) the treatment of the sale, conveyance, assignment or other transfer for tax, financial reporting or other purposes;

(8) the granting or providing to bondholders a preferred right to the securitized utility tariff property or credit enhancement by the public utility or its affiliates with respect to such securitized utility tariff bonds; or

(9) any application of the adjustment mechanism as provided in section 2, and amendments thereto.

(c) Any right that a public utility has in the securitized utility tariff property before its pledge, sale or transfer or any other right created under this section or created in the financing order and assignable under this section or assignable pursuant to a financing order is property in the form of a contract right or a chose in action. Transfer of an interest in securitized utility tariff property to an assignee is enforceable only upon the latest of:

(1) The issuance of a financing order;

(2) the assignor having rights in such securitized utility tariff property or the power to transfer rights in such securitized utility tariff property to an assignee;

(3) the execution and delivery by the assignor of transfer documents in connection with the issuance of securitized utility tariff bonds; and

(4) the receipt of value for the securitized utility tariff property.

(d) An enforceable transfer of an interest in securitized utility tariff property to an assignee is perfected against all third parties, including

subsequent judicial or other lien creditors, when a notice of that transfer has been given by the filing of a financing statement in accordance with section 9, and amendments thereto. The transfer is perfected against third parties as of the date of filing.

(e) The priority of a transfer perfected under this section is not impaired by any later modification of the financing order or securitized utility tariff property or by the commingling of funds arising from the securitized utility tariff property with other funds. Any other security interest that may apply to those funds, other than a security interest perfected under section 6, and amendments thereto, is terminated when they are transferred to a segregated account for the assignee or a financing party. If securitized utility tariff property has been transferred to an assignee or financing party, any proceeds of such property shall be held in trust for the assignee or financing party.

(f) The priority of conflicting interests of assignees in the same interest or rights in any securitized utility tariff property is determined as follows:

(1) Conflicting perfected security interests or rights of assignees rank according to priority in time of perfection. Priority dates from the time a filing covering the transfer is made in accordance with section 6, and amendments thereto;

(2) a perfected security interest or right of an assignee has priority over a conflicting unperfected security interest or right of an assignee; and

(3) a perfected security interest or right of an assignee has priority over a person who becomes a lien creditor after the perfection of such assignee's interest or right.

New Sec. 8. The description of securitized utility tariff property being transferred to an assignee in a sales agreement, purchase agreement or other transfer agreement, granted or pledged to a pledgee in a security agreement, pledge agreement or other security document or indicated in any financing statement is only sufficient if such description or indication refers to the financing order that created the securitized utility tariff property and states that the agreement or financing statement covers all or part of the property described in the financing order. This section applies to all purported transfers of, and all purported grants or liens or security interests in, securitized utility tariff property, regardless of whether the related sale agreement, purchase agreement, other transfer agreement, security agreement, pledge agreement or other security document was entered into or any financing statement was filed.

New Sec. 9. The secretary of state shall maintain any financing statement filed to perfect a sale or other transfer of securitized utility tariff property and any security interest in securitized utility tariff property in the same manner that the secretary of state maintains financing statements

filed under the code to perfect a security interest in collateral owned by a transmitting utility. Except as otherwise provided in this section, all financing statements filed pursuant to this section shall be governed by the provisions regarding financing statements and the filing thereof under the code, including part 5 of article 9 of the code, and amendments thereto. A security interest in securitized utility tariff property may be perfected only by the filing of a financing statement in accordance with this section, and no other method of perfection shall be effective. Notwithstanding any provision of the code to the contrary, a financing statement filed pursuant to this section is effective until a termination statement is filed under the code, and no continuation statement is required to be filed to maintain its effectiveness. A financing statement filed pursuant to this section may indicate that the debtor is a transmitting utility, and without regard to whether the debtor is a public utility, an assignee or otherwise qualifies as a transmitting utility under the code. The failure to make such indication shall not impair the duration and effectiveness of the financing statement.

New Sec. 10. The law governing validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation of a security interest in any securitized utility tariff property shall be the laws of this state.

New Sec. 11. Neither the state nor any of its political subdivisions, agencies or instrumentalities shall be liable on any securitized utility tariff bonds, and the bonds shall not be considered a debt or a general obligation of the state nor any political subdivisions, agencies or instrumentalities nor shall they be considered a special obligation or indebtedness of the state nor any of its political subdivisions, agencies or instrumentalities. An issue of securitized utility tariff bonds does not, directly, indirectly or contingently, obligate the state, nor any political subdivisions, agencies or instrumentalities of the state, to levy any tax or make any appropriation for payment of the securitized utility tariff bonds, other than in their capacity as consumers of electricity or natural gas. All securitized utility tariff bonds shall contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of Kansas is pledged to the payment of the principal of, or interest on, this bond."

New Sec. 12. The following entities may legally invest any sinking funds, moneys or other funds in securitized utility tariff bonds:

(a) Subject to applicable statutory restrictions on state or local investment authority, the state, units of local government, political subdivisions, public bodies and public officers, except for members of the commission and the commission's technical advisory and other staff, or board members and employees of the citizens' utility ratepayer board;

(b) banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations and other persons carrying on a banking or insurance business;

(c) personal representatives, guardians, trustees and other fiduciaries; or

(d) all other persons authorized to invest in bonds or other obligations of a similar nature.

New Sec. 13. (a) The state and its agencies, including the commission, hereby pledge and agree with bondholders, the owners of the securitized utility tariff property and other financing parties that the state and its agencies shall not take any action listed in this section. This subsection does not preclude limitation or alteration if full compensation is made by law for the full protection of the securitized utility tariff charges collected pursuant to a financing order and of the bondholders and any assignee or financing party entering into a contract with the public utility. The prohibited actions are as follows:

(1) Altering the provisions of this section that authorize the commission to create an irrevocable contract right or chose in action by the issuance of a financing order, to create securitized utility tariff property and to make the securitized utility tariff charges imposed by a financing order irrevocable, binding or nonbypassable charges for all existing and future retail customers within the service area of the public utility;

(2) taking or permitting any action that impairs or would impair the value of securitized utility tariff property or the security for the securitized utility tariff bonds or revises the securitized utility tariff costs for which recovery is authorized;

(3) impairing the rights and remedies of the bondholders, assignees and other financing parties in any way; or

(4) except for changes made pursuant to the adjustment mechanism authorized under this section, reducing, altering or impairing securitized utility tariff charges that are to be imposed, billed, charged, collected and remitted for the benefit of the bondholders, any assignee and any other financing parties until any and all principal, interest, premium, financing costs and other fees, expenses or charges incurred and any contracts to be performed in connection with the related securitized utility tariff bonds have been paid and performed in full.

(b) Any person or entity that issues securitized utility tariff bonds may include the language specified in this section in the securitized utility tariff bonds and related documentation.

(c) An assignee or financing party shall not be considered a public utility, an electric public utility, a natural gas public utility or person providing electric or natural gas service by virtue of engaging in the transactions described in this act.

(d) If there is a conflict between this act and any other law regarding the attachment, assignment, perfection, effect of perfection or priority of, assignment or transfer of or security interest in securitized utility tariff property, this section shall govern.

(e) If any provision of this act is held invalid or is invalidated, superseded, replaced, repealed or expires for any reason, such occurrence does not affect the validity of any action allowed under this section that is taken by a public utility, an assignee, a financing party, a collection agent or a party to an ancillary agreement, and any such action remains in full force and effect with respect to all securitized utility tariff bonds issued or authorized in a financing order issued under this section before the date that such provision is held invalid or is invalidated, superseded, replaced, repealed or expires for any reason.

New Sec. 14. A public utility has sole discretion to determine the method by which it expends or invests the proceeds received from the issuance of securitized utility tariff bonds. Nothing in this act shall be construed to restrict the ability of a public utility from investing the proceeds in infrastructure as the utility deems necessary for it to continue to meet its obligations of providing reasonably efficient and sufficient service pursuant to K.S.A. 66-101b and 66-1,201, and amendments thereto. If the public utility invests in infrastructure, the commission shall review these investments using its regular processes for consideration and rate-making determination of infrastructure investments. For electric public utilities, this review may take place as part of an application for predetermination filed pursuant to K.S.A. 66-1239, and amendments thereto, or for electric and natural gas public utilities, as part of any other rate-making process established by the commission pursuant to chapter 66 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 15. K.S.A. 66-1239 is hereby amended to read as follows: 66-1239. (a) As used in this section:

(1) "Commission" means the state corporation commission;

(2) "contract" means a public utility's contract for the purchase of electric power in the amount of at least $5,000,000 annually;

(3) "generating facility" means any electric generating plant or improvement to existing generation facilities;

(4) "stake" means a public utility's whole or fractional ownership share or leasehold or other proprietary interest in a generating facility or transmission facility;

(5) "public utility" ~~has the meaning provided by~~ *means the same as defined in* K.S.A. 66-104, and amendments thereto; and

(6) "transmission facility" means: (A) Any existing line, and supporting structures and equipment, being upgraded for the transfer of electricity with an operating voltage of 34.5 kilovolts or more of electricity; or (B)

any new line, and supporting structures and equipment, being constructed for the transfer of electricity with an operating voltage of 230 kilovolts or more of electricity.

(b) (1) Prior to undertaking the construction of, or participation in, a transmission facility, a public utility may file with the commission a petition for a determination of the rate-making principles and treatment, as proposed by the public utility, that will apply to the recovery in wholesale or retail rates of the cost to be incurred by the public utility to acquire such public utility's stake in the transmission facility during the expected useful life of the transmission facility.

(2) The commission shall issue an order setting forth the rate-making principles and treatment that will be applicable to the public utility's stake in the transmission facility in all rate-making proceedings on and after such time as the transmission facility is placed in service or the term of the contract commences.

(3) The commission in all proceedings in which the cost of the public utility's stake in the transmission facility is considered shall utilize the rate-making principles and treatment applicable to the transmission facility.

(4) If the commission fails to issue a determination within 180 days of the date a petition for a determination of rate-making principles and treatment is filed, the rate-making principles and treatment proposed by the petitioning public utility will be deemed to have been approved by the commission and shall be binding for rate-making purposes during the useful life of the transmission facility.

(5) If the commission does not have jurisdiction to set wholesale rates for use of the transmission facility the commission need not consider rate-making principles and treatment for wholesale rates for the transmission facility.

(c) (1) Prior to undertaking the construction of, or participation in, a generating facility ~~or~~, prior to entering into a new contract~~,~~ *or prior to retiring or abandoning a generating facility, or within a reasonable time after retirement or abandonment if filing before retirement or abandonment is not possible under the circumstances,* a public utility may file with the commission ~~a petition~~ *an application* for a determination of the rate-making principles and treatment, as proposed by the public utility, that will apply to*:*

(A) Recovery in wholesale or retail rates of the cost to be incurred by the public utility to acquire such public utility's stake in the generating facility during the expected useful life of the generating facility or the recovery in rates of the contract during the term thereof*; or*

(B) reflection in wholesale or retail rates of the costs to be incurred and the cost savings to be achieved by the public utility in retiring or

abandoning such public utility's stake in the generating facility, including, but not limited to, the reasonableness of such retirement or abandonment.

(2) Any utility seeking a determination of rate-making principles and treatment under subsection (c)(1) shall as a part of its filing submit the following information: (A) A description of the public utility's conservation measures; (B) a description of the public utility's demand side management efforts; (C) the public utility's ten-year generation and load forecasts; and (D) a description of all power supply alternatives considered to meet the public utility's load requirements.

(3) In considering the public utility's supply plan, the commission may consider if the public utility issued a request for proposal from a wide audience of participants willing and able to meet the needs identified under the public utility's generating supply plan, and if the plan selected by the public utility is reasonable, reliable and efficient.

(4) The commission shall issue an order setting forth the rate-making principles and treatment that will be applicable to the public utility's stake in the generating facility or to the contract in all rate-making proceedings on and after such time as the generating facility is*:*

(A) Placed in service or the term of the contract commences*; or*

(B) retired or abandoned.

(5) The commission in all proceedings in which the cost of the public utility's stake in the generating facility or the cost of the purchased power under the contract is considered shall utilize the rate-making principles and treatment applicable to the generating facility ~~or~~, contract *or retired or abandoned generating facility*.

(6) If the commission fails to issue a determination within 180 days of the date a petition for a determination of rate-making principles and treatment is filed, the rate-making principles and treatment proposed by the petitioning public utility will be deemed to have been approved by the commission and shall be binding for rate-making purposes during the useful life of the generating facility ~~or~~, during the term of the contract *or during the period when the cost of the retired or abandoned generating facility is reflected in customer rates*.

(d) The public utility shall have one year from the effective date of the determination of the commission to notify the commission whether it will construct or participate in the construction of the generating or transmission facility ~~or~~, whether it will perform under terms of the contract *or whether it will retire or abandon the generating facility*.

(e) If the public utility notifies the commission within the one-year period that the public utility will not construct or participate in the construction of the generating or transmission facility ~~or~~, that it will not perform under the terms of the contract *or that it will not retire or abandon the generating facility*, then the determination of rate-making principles pursuant to sub-

section (b) or (c) shall be of no further force or effect, shall have no precedential value in any subsequent proceeding, and there shall be no adverse presumption applied in any future proceeding as a result of such notification.

(f) If the public utility notifies the commission under subsection (d) that it will construct or participate in a generating facility or purchase power contract and subsequently does not, *or that it will retire or abandon a generating facility and subsequently does not*, it will be required to notify the commission immediately and file an alternative supply plan with the commission ~~per~~ *pursuant to* subsection (c) within 90 days.

Sec. 16. K.S.A. 2020 Supp. 84-9-109 is hereby amended to read as follows: 84-9-109. (a) **General scope of article.** Except as otherwise provided in subsections (c) and (d), this article applies to:

(1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(2) an agricultural lien;

(3) a sale of accounts, chattel paper, payment intangibles, or promissory notes;

(4) a consignment;

(5) a security interest arising under K.S.A. 84-2-401, 84-2-505, ~~subsection (3) of~~ 84-2-711*(3)* or ~~subsection (5) of~~ 84-2a-508*(5)*, and amendments thereto, as provided in K.S.A. 2020 Supp. 84-9-110, and amendments thereto; and

(6) a security interest arising under K.S.A. 84-4-201 or 84-5-118, and amendments thereto.

(b) **Security interest in secured obligation.** The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) **Extent to which article does not apply.** This article does not apply to the extent that:

(1) A statute, regulation, or treaty of the United States preempts this article;

(2) another statute of this state expressly governs the creation, perfection, priority or enforcement of a security interest created by this state or a governmental unit of this state;

(3) a statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

(4) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under K.S.A. 84-5-114, and amendments thereto.

(d) **Inapplicability of article.** This article does not apply to:

(1) A landlord's lien, other than an agricultural lien;

(2) a statutory lien, or a lien given by statute or other rule of law for services or materials, but K.S.A. 2020 Supp. 84-9-333, and amendments thereto, applies with respect to priority of the lien;

(3) an assignment of a claim for wages, salary, or other compensation of an employee;

(4) a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(5) an assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(6) an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) an assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but K.S.A. 2020 Supp. 84-9-315 and 84-9-322, and amendments thereto, apply with respect to proceeds and priorities in proceeds;

(9) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) a right of recoupment or set-off, but:

(A) K.S.A. 2020 Supp. 84-9-340, and amendments thereto, applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) K.S.A. 2020 Supp. 84-9-404, and amendments thereto, applies with respect to defenses or claims of an account debtor;

(11) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) Liens on real property in K.S.A. 2020 Supp. 84-9-203 and 84-9-308, and amendments thereto;

(B) fixtures in K.S.A. 2020 Supp. 84-9-334, and amendments thereto;

(C) fixture filings in K.S.A. 2020 Supp. 84-9-501, 84-9-502, 84-9-512, 84-9-516 and 84-9-519, and amendments thereto; and

(D) security agreements covering personal and real property in K.S.A. 2020 Supp. 84-9-604, and amendments thereto;

(12) an assignment of a claim arising in tort, other than a commercial tort claim, but K.S.A. 2020 Supp. 84-9-315 and 84-9-322, and amendments thereto, apply with respect to proceeds and priorities in proceeds;

(13) an assignment of a deposit account in a consumer transaction, but K.S.A. 2020 Supp. 84-9-315 and 84-9-322, and amendments thereto, apply with respect to proceeds and priorities in proceeds;

(14) an assignment of rights in or under:

(A) A claim or right to receive benefits under any workers compensation, industrial accident or similar statute or regulation which provides benefits for occupational injury or illness; or

(B) a deferred payment or benefit arrangement that enables a participant to exclude or defer recognition of income for purposes of federal or state income taxation; ~~or~~

(15) a transfer by a government or governmental agency or subdivision*; or*

(16) the creation, attachment, perfection, priority or enforcement of any sale, assignment of, pledge of, security interest in or other transfer of any interest in, right or portion of any interest or right in any securitized utility tariff property, as defined in section 1, and amendments thereto, except as otherwise provided in the utility financing and securitization act.

Sec. 17. K.S.A. 66-1239 and K.S.A. 2020 Supp. 84-9-109 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 9, 2021.

Published in the *Kansas Register* April 22, 2021.

CHAPTER 30

SENATE BILL No. 52*

AN ACT establishing the Sedgwick county urban area nuisance abatement act.

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

Section 1. (a) Sections 1 through 6, and amendments thereto, shall be known and may be cited as the Sedgwick county urban area nuisance abatement act.

(b) Sedgwick county has been declared an urban area under K.S.A. 19-2654, and amendments thereto, as permitted by section 17 of article 2 of the constitution of the state of Kansas.

(c) Before any nuisance abatement process shall be commenced under this act, Sedgwick county first shall have obtained a conviction for a county code violation resulting from such nuisance within the 12-month period prior to the issuance of any order as provided in section 2, and amendments thereto.

(d) (1) The board of county commissioners may order the removal or abatement of any nuisance from any lot or parcel of ground within the unincorporated area of the county. The board may order the repair or demolition of any structure, or the removal or abatement of any other type of nuisance.

(2) The order shall provide that all costs associated with the abatement shall be paid by the owner of the property on which the nuisance is located.

Sec. 2. (a) Whenever the board of county commissioners or other agency designated by the board files with the Sedgwick county clerk a statement in writing describing a nuisance and declaring that such nuisance is a menace and dangerous to the health of the inhabitants of the county, the board of county commissioners, by resolution, may make such determination and issue an order requiring the nuisance be removed or abated.

(b) Except as provided by subsection (c), the board of county commissioners shall order the owner of the property to remove and abate the nuisance within not less than 10 days, to be specified in the order. The board or its designated representative may grant extensions of the time period indicated in the order. The order shall state that before the expiration of the waiting period or any extension, the recipient may request a hearing before the board or its designated representative. The order shall be served on the owner by personal service in accordance with K.S.A. 60-303, and amendments thereto.

(c) If the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section

during the preceding 24-month period, the board of county commissioners may provide notice of the issuance of any further orders to abate or remove a nuisance from the property in the manner provided by subsection (d) or as provided in this subsection. The board may provide notice of the order by such methods including, but not limited to, door hangers conspicuously posting notice of the order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(d) If the owner of the property fails to comply with the order for a period longer than that named in the order or any extensions of such time period, the board of county commissioners may proceed to order the repair or demolition of any structure and have the items described in the order removed and abated from the lot or parcel of ground. If the county abates or removes the nuisance, the county shall give notice to the owner by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the county. The notice also shall state that payment of the cost is due and payable within 60 days following the mailing of the notice.

(e) If the cost of the removal or abatement is not paid within the 60-day period, the cost shall be assessed and charged against the lot or parcel of land on which the nuisance was located. If the cost is to be assessed, the county clerk, at the time of certifying other county taxes, shall certify the costs, and the county clerk shall extend the cost on the tax roll of the county against the lot or parcel of land. Such cost shall be collected by the county treasurer.

(f) In assessing the cost of removal and abatement of a nuisance, the county shall subtract from the total cost of the abatement or removal incurred by the county the value of the property removed or abated. If the value of the property removed or abated is greater than the cost of the removal or abatement incurred by the county, the county shall pay the owner the difference. If the value of the property is contested, the property owner may request a hearing before the board or its designated representative prior to the 60 days following receipt of notice of costs due and payable under subsection (d).

(g) All orders and notices shall be served on the owner of record or, if there is more than one owner of record, then on at least one such owner.

(h) Any decision of the board of county commissioners or its designated representative is subject to review in accordance with the Kansas judicial review act.

Sec. 3. Sedgwick county may remove and abate from property, other than public property or property open to the use by the public, a motor vehicle determined to be a nuisance. Disposition of such vehicles shall be

in compliance with the procedures for impoundment, notice and public auction provided by K.S.A. 8-1102(a)(2), and amendments thereto. Following any sale by public auction of a vehicle determined to be a nuisance, the purchaser may file proof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of the motor vehicle. If a public auction is conducted, but no responsible bid is received, the county may file proof with the division of vehicles, and the division shall issue a certificate of title of the motor vehicle to the county. Any person whose motor vehicle has been disposed of pursuant to this section shall be eligible for a refund of the tax imposed pursuant to K.S.A. 79-5101 et seq., and amendments thereto. The amount of the refund shall be determined in the manner provided by K.S.A. 79-5107, and amendments thereto.

Sec. 4. The board of county commissioners may adopt a resolution to establish any policies, procedures, designated body or other related matters for hearings that property owners or their agents may request pursuant to this act.

Sec. 5. Nothing in the Sedgwick county urban area nuisance abatement act shall apply to land, structures, machinery and equipment or motor vehicles used for an agricultural activity. For purposes of this section, the term "agricultural activity" means the same as defined in K.S.A. 2-3203, and amendments thereto, except such term shall also include real and personal property, machinery, equipment, stored grain and agricultural input products owned or maintained by commercial grain elevators and agribusiness facilities.

Sec. 6. The Sedgwick county urban area nuisance abatement act, sections 1 through 6, and amendments thereto, shall expire on July 1, 2024.

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

Approved April 9, 2021.

CHAPTER 31

HOUSE BILL No. 2070

AN ACT concerning postsecondary education; relating to certain private postsecondary educational institutions; acceptable methods of payment, credit card surcharges; amending K.S.A. 75-30,100 and repealing the existing section.

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

Section 1. K.S.A. 75-30,100 is hereby amended to read as follows: 75-30,100. (a) Any state agency ~~which~~ *that* imposes or collects fees, tuition or other charges shall accept payment thereof in the form of a personal, certified or cashier's check or money order. A state agency may accept payment by credit card, debit card or other method designated by the agency. A state agency may impose an additional fee to recover the actual amount of any cost incurred by reason of the method of payment used by the payee.

(b) In addition to the methods specified in subsection (a), after June 30, 2001, a state agency shall accept payment of fees, tuition or other charges in the form of a credit card or debit card.

(c) Any transactions involving payment by credit card or debit card pursuant to this section shall not be subject to the provisions of K.S.A. 16a-2-403, and amendments thereto.

(d) The provisions of this section shall not apply to any fees, fines or charges imposed by the secretary of corrections ~~or the commissioner of juvenile justice~~ on offenders under the jurisdiction of the secretary of corrections or juvenile offenders placed in juvenile correctional facilities under the jurisdiction of the ~~commissioner of juvenile justice~~ *secretary of corrections*.

(e) Any municipal university, community college, technical college~~,~~ or vocational educational school, ~~having the meanings respectively ascribed thereto~~ *as defined* by K.S.A. 74-3201b, and amendments thereto, *or not-for-profit private postsecondary educational institution that was granted approval to confer academic or honorary degrees by the Kansas state board of education under the provisions of K.S.A. 17-6105, prior to its repeal, or is otherwise exempt from the Kansas private and out-of-state postsecondary educational institution act pursuant to K.S.A. 74-32,164, and amendments thereto,* accepting payment of fees, tuition or other charges in the form of a credit card or debit card shall not be subject to the provisions of K.S.A. 16a-2-403, and amendments thereto.

Sec. 2. K.S.A. 75-30,100 is hereby repealed.

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

Approved April 9, 2021.

CHAPTER 32

HOUSE BILL No. 2155

AN ACT concerning the department of health and environment; relating to water and soil pollutants; spill program; penalties; amending K.S.A. 65-171v and repealing the existing section; also repealing K.S.A. 65-171w.

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

Section 1. K.S.A. 65-171v is hereby amended to read as follows: 65-171v. ~~Whenever a water or soil pollutant is discharged intentionally, accidentally or inadvertently and the secretary of health and environment or the secretary's authorized representative determines that the discharged material must be collected, retained or rendered innocuous, and if a discharger refuses to undertake cleanup operations or if the responsible discharger is unknown at the time, the secretary or the secretary's authorized representative may enter into an agreement with a person to conduct the necessary cleanup operations with payment for such cleanup work to be provided from the pollutant discharge cleanup fund. Any person responsible for or causing the discharge of materials which are determined necessary to cleanup under the provisions of this act shall be responsible for repayment of the costs of cleanup work upon reasonably detailed notification by the secretary or the secretary's authorized representative. If the responsible person fails to promptly submit payment for costs of the cleanup operations when so notified, such payment shall be recoverable in an action brought by the attorney general on behalf of the people of the state of Kansas in the district court of the county in which such costs were incurred. Any moneys recovered 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 pollutant discharge cleanup fund~~ *(a) As used in this section:*

(1) "Cleanup" means all actions necessary to contain, collect, control, identify, analyze, treat, disperse, remove or dispose of a pollutant necessary to restore the environment to the extent practicable and minimize the harmful effects from the release;

(2) "cleanup costs" means all costs incurred by the state during a cleanup of a release of a pollutant, including costs necessary for regulator oversight of the cleanup;

(3) "emergency" means any release that poses an imminent risk to public health or the environment;

(4) "person" means any individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency;

(5) "pollutant" means any substance that alters the natural physical, chemical or biological properties of any waters or soils of the state so as to render such waters or soils harmful, detrimental or injurious to public health, or to the plant, animal or aquatic life of the state or to other designated uses. "Pollutant" does not include any animal or crop waste or manure on an agricultural operation or in an agricultural facility; and

(6) "release" means any threatened or real emission, discharge, spillage, leakage, pumping, pouring, emptying, escape or dumping of a pollutant into or onto the waters or soil of the state, except when done in compliance with the conditions of a federal or state permit or in accordance with the product label or as part of normal agricultural activities.

(b) For the purpose of preventing water and soil pollution detrimental to public health or the environment, the secretary of health and environment shall:

(1) Adopt rules and regulations that, in the secretary's judgment, are necessary to respond to and report the release of a pollutant;

(2) designate a 24-hour statewide telephone number whereby the notice of any release of a pollutant may be made;

(3) provide minimum reportable quantities;

(4) order a person responsible for the release of a pollutant to perform a cleanup of the release; and

(5) take necessary action to perform a cleanup of a release if the person responsible for the release cannot be identified within a reasonable period of time.

(c) The secretary may:

(1) Provide technical guidance, oversight and assistance to other state agencies, political subdivisions of the state and other persons for the cleanup of and response to the release of a pollutant;

(2) take necessary action to perform a cleanup of a release of a pollutant if a person responsible for the release fails to take reasonable actions required by the secretary to perform a cleanup of the release; and

(3) perform a cleanup of a release of a pollutant if the release poses an emergency.

(d) (1) Whenever a pollutant is released intentionally, accidentally or inadvertently, the person responsible for the release shall be responsible for the cleanup of the release.

(2) The person responsible for the release of any pollutant, regardless of phase or physical state, shall give notice to the department of health and environment when the release exceeds reportable quantities.

(3) The person responsible for the release shall be responsible for repayment of the cleanup costs incurred by the department upon reasonably detailed notice by the secretary or the secretary's designee. If the responsible party fails to submit payment for costs of the cleanup operations

promptly after giving notice, repayment costs shall be recoverable in an action brought by the attorney general in the district court of the county where such costs were incurred.

(e) (1) Upon a finding that a person has violated any provision of this section or rules and regulations or orders adopted hereunder, the secretary may impose a penalty not to exceed $5,000. In the case of a continuing violation, the maximum penalty shall not exceed $15,000.

(2) Any moneys recovered under this section shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the emergency response activities account in the natural resources damages trust fund established pursuant to K.S.A. 75-5672(f), and amendments thereto.

(3) No penalty shall be imposed except after notice of the violation and an opportunity for a hearing upon the written order of the secretary issued to the person who committed the violation. The order shall state the violation, the penalty to be imposed and the right to request a hearing. The request for a hearing shall be in writing, directed to the secretary and filed with the secretary within 15 calendar days after service of such order. Hearings under this subsection shall be conducted in accordance with the Kansas administrative procedure act.

Sec. 2. K.S.A. 65-171v and 65-171w are hereby repealed.

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

Approved April 9, 2021.

CHAPTER 33

HOUSE BILL No. 2145
(Amended by Chapter 113)

AN ACT concerning electric public utilities; relating to the state corporation commission; exempting retail sales of electricity through electric vehicle charging stations from commission jurisdiction; amending K.S.A. 66-104 and repealing the existing section.

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

Section 1. K.S.A. 66-104 is hereby amended to read as follows: 66-104. (a) The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. No cooperative, cooperative society, nonprofit or mutual corporation or association which is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office facilities, shall be subject to the jurisdiction and control of the commission as provided ~~herein~~*in this section*, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. As used ~~herein~~ *in this section*, the term "transmission of telephone messages" shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

(b) The term "public utility" shall also include that portion of every municipally owned or operated electric or gas utility located in an area outside of and more than three miles from the corporate limits of such municipality, but regulation of the rates, charges and terms and conditions of service of such utility within such area shall be subject to commission regulation only as provided in K.S.A. 66-104f, and amendments thereto. Nothing in this act shall apply to a municipally owned or operated utility, or portion thereof, located within the corporate limits of such municipality or located outside of such corporate limits but within three miles thereof ~~except as provided in K.S.A. 66-131a, and amendments thereto~~.

(c) Except as ~~herein~~ provided *in this section*, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city, subject only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of K.S.A. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be deemed to be a public utility as that term is used in this act and, as such, shall be subject to the jurisdiction of the commission.

(d) The term "public utility" shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of*:*

(1) Compressed natural gas for end use as motor vehicle fuel*; or*

(2) electricity that is purchased through a retail electric supplier in the certified territory of such retail electric supplier, as such terms are defined in K.S.A. 66-1,170, and amendments thereto, for the sole purpose of the provision of electric vehicle charging service to end users.

(e) At the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility ~~which~~ *that*:

(1) Is newly constructed and placed in service on or after January 1, 2001; and

(2) is not in the rate base of:

(A) An electric public utility that is subject to rate regulation by the state corporation commission;

(B) any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or

(C) a municipally owned or operated electric utility.

(f) Additional generating capacity achieved through efficiency gains by refurbishing or replacing existing equipment at generating facilities placed in service before January 1, 2001, shall not qualify under subsection (e).

(g) For purposes of the authority to appropriate property through eminent domain, the term "public utility" shall not include any activity for the siting or placement of wind powered electrical generators or turbines, including the towers.

Sec. 2. K.S.A. 66-104 is hereby repealed.

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

Approved April 9, 2021.

CHAPTER 34

HOUSE BILL No. 2298

AN ACT concerning service of process; relating to the secretary of state; nonresident drivers or their representatives; domestic or foreign business entities; amending K.S.A. 8-402 and K.S.A. 2020 Supp. 60-304 and repealing the existing sections.

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

Section 1. K.S.A. 8-402 is hereby amended to read as follows: 8-402. ~~The manner of procuring and serving process in any cause, brought pursuant to the preceding section, shall be as follows, to wit~~ *Service of process under K.S.A. 8-401, and amendments thereto, shall be made as follows*:

(a) (1) The plaintiff shall file a verified petition in the district court in the county where the cause of action arose or the plaintiff resides, showing a cause of action against the defendant of the class contemplated in K.S.A. 8-401, *and amendments thereto*, and shall further show in ~~said~~ *the* petition, or by affidavit, to the satisfaction of the ~~judge of said~~ court, *the following: (A)* That the defendant is one of the persons contemplated in ~~said~~ K.S.A. 8-401, and *amendments thereto; (B)* the residence of ~~said~~ *the* defendant~~, and~~*; (C)* a description of the car or motor vehicle claimed to have been operated by the ~~said~~ *the* defendant or an agent of the defendant, as near as ~~the same~~ can reasonably be ascertained by the plaintiff; and *(D)* the time, place and nature of ~~such~~ *the* accident~~,~~ or injury.

(2) Upon such showing being made, the ~~judge~~ *court* shall make an order~~,~~ *directing a summons to be issued and* directing that service of process be made on the defendant as provided in ~~said~~ K.S.A. 8-401~~; and also, that~~*, and amendments thereto, by delivering* a copy of the ~~process, and~~ *summons,* petition~~,~~ and ~~of said~~ order~~, and a notice that the same have been served upon the secretary of state, pursuant to this act, be delivered to the defendant by registered mail or personally without the state by a sheriff or deputy sheriff in such state. Proof of such service shall be made by affidavit filed in said cause by the person making said service, and service shall be deemed complete thirty (30) days from the date the affidavit is filed by the person making the service stating that such personal service has been made on the defendant and giving the date thereof~~ *in accordance with subsection (b)*. The court ~~in which the action is pending~~ shall, upon affidavit submitted upon behalf of the defendant, grant such additional time to answer, or continuances, as shall be reasonably necessary to allow *the* defendant full opportunity to plead and prepare for ~~the~~ trial ~~of the said cause~~.

(b) (1) The plaintiff may serve the defendant by providing the secretary of state with a copy of the summons, petition and order and the last known address, residence or place of abode for each defendant and paying

the secretary of state a fee in the amount provided in K.S.A. 60-304(f), and amendments thereto. The secretary of state shall immediately mail to each defendant by return receipt delivery, addressed to the defendant at the defendant's last known address, residence or place of abode, a notice of service and a copy of the summons, petition and order provided by the plaintiff.

(2) The plaintiff may serve the defendant by causing a notice of service and a copy of the summons, petition and order to be personally served on the defendant in the foreign state by an adult person not a party to the suit or an officer duly qualified to serve legal process in the state or jurisdiction where the defendant is found, by delivering such documents to the defendant or by offering to make such delivery in the case of a defendant who refuses to accept the delivery. The server shall, on or before the return day of the process or within such further time as the court may allow, file an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, or any other competent proof, stating the time, manner and place of service. The plaintiff shall notify the secretary of state in writing that the plaintiff is personally serving the defendant and shall provide the secretary of state with a copy of the notice of service, summons, petition and order provided to the defendant.

(3) Compliance with this subsection constitutes sufficient service on the defendant.

(c) The notice of service required by subsection (b) shall be signed, dated and in substantially the following form: "To (insert the name of each defendant and such defendant's last known address, residence or place of abode), you will take notice that original process in this suit against you, a copy of which is hereto attached, was duly served upon you at Topeka, Shawnee County, Kansas, on (insert date) by serving the required documents on the secretary of state of the state of Kansas."

(d) The secretary of state shall keep a record of all process served upon the office under this section, and such record shall show the day of service of every such process.

Sec. 2. K.S.A. 2020 Supp. 60-304 is hereby amended to read as follows: 60-304. As used in this section, "serving" means making service by any of the methods described in K.S.A. 60-303, and amendments thereto, unless a specific method of making service is prescribed in this section. Except for service by publication under K.S.A. 60-307, and amendments thereto, service of process under this article must be made as follows:

(a) *Individual.* On an individual other than a minor or a disabled person, by serving the individual or by serving an agent authorized by appointment or by law to receive service of process. If the agent is one designated by statute to receive service, such further notice as the statute requires must be given. Service by return receipt delivery must be addressed to an individual at the individual's dwelling or usual place of

abode and to an authorized agent at the agent's usual or designated address. If the sheriff, party or party's attorney files a return of service stating that the return receipt delivery to the individual at the individual's dwelling or usual place of abode was refused or unclaimed and that a business address is known for the individual, the sheriff, party or party's attorney may complete service by return receipt delivery, addressed to the individual at the individual's business address.

(b) *Minor.* On a minor, by serving:

(1) The minor; and

(2) either:

(A) The minor's guardian or conservator, if the minor has one within this state;

(B) the minor's father, mother or other person having the minor's care or control or with whom the minor resides; or

(C) if service cannot be made as specified in paragraphs (A) or (B), as provided by order of the court.

Service by return receipt delivery must be addressed to an individual at the individual's dwelling or usual place of abode and to a corporate guardian or conservator at the guardian's or conservator's usual place of business.

(c) *Disabled person.* On a disabled person, as defined in K.S.A. 77-201, and amendments thereto, by:

(1) Serving:

(A) The person's guardian, conservator or a competent adult member of the person's family with whom the person resides;

(B) if the person resides in an institution, the director or chief executive officer of the institution; or

(C) if service cannot be made as specified in paragraphs (A) or (B), as provided by order of the court; and

(2) unless the court otherwise orders, serving the disabled person.

Service by return receipt delivery must be addressed to the director or chief executive officer of an institution at the institution, to any other individual at the individual's dwelling or usual place of abode, and to a corporate guardian or conservator at the guardian's or conservator's usual place of business.

(d) *Governmental bodies.* On:

(1) A county, by serving one of the county commissioners, the county clerk or the county treasurer;

(2) a township, by serving the clerk or a trustee;

(3) a city, by serving the clerk or the mayor;

(4) any other public corporation, body politic, district or authority, by serving the clerk or secretary or, if the clerk or secretary is not found, any officer, director or manager thereof; and

(5) the state or any governmental agency of the state, when subject to suit, by serving the attorney general or an assistant attorney general.

Service by return receipt delivery must be addressed to the appropriate official at the official's governmental office. Income withholding orders for support and orders of garnishment of earnings of state officers and employees must be served on the state or governmental agency of the state in the manner provided by K.S.A. 60-723, and amendments thereto.

(e) *Corporations, domestic or foreign limited liability companies, domestic or foreign limited partnerships, domestic or foreign limited liability partnerships and partnerships.* On a domestic or foreign corporation, domestic or foreign limited liability company, domestic or foreign limited partnership, domestic or foreign limited liability partnership or a partnership or other unincorporated association that is subject to suit in a common name, by:

(1) Serving an officer, manager, partner or a resident, managing or general agent;

(2) leaving a copy of the summons and petition or other document at any of its business offices with the person having charge thereof; or

(3) serving any agent authorized by appointment or by law to receive service of process, and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

Service by return receipt delivery on an officer, partner or agent must be addressed to the person at the person's usual place of business.

(f) *Resident agent for a corporation, limited liability company, limited partnership or limited liability partnership.* A domestic corporation, domestic limited liability company ~~or~~, domestic limited partnership *or domestic limited liability partnership*, and, if it is authorized to transact business or transacts business without authority in this state, a foreign corporation, foreign limited liability company ~~or~~, foreign limited partnership *or foreign limited liability partnership* irrevocably authorizes the secretary of state as its agent to accept on its behalf service of process, or any notice or demand required or permitted by law to be served on it, when: (1) It fails to appoint or maintain in this state a resident agent on whom service may be had; or (2) its resident agent cannot with reasonable diligence be found at the registered office in this state. Service on the secretary of state of any process, notice or demand must be made by delivering to the secretary of state, by personal service or by return receipt delivery, the original and two copies of the process and two copies of the petition, notice or demand. When any process, notice or demand is served on the secretary of state, the secretary must promptly forward a copy of it by return receipt delivery, addressed to the corporation, limited liability company ~~or~~, limited partnership *or limited liability partnership* at its principal office as it appears in the records of the secretary of state,

or at the registered or principal office of the corporation, limited liability company ~~or~~, limited partnership *or limited liability partnership* in the state of its incorporation or formation. The secretary of state must keep a record of all processes, notices and demands served on the secretary under this subsection, and must record the time of the service and the action taken by the secretary. A fee of $40 must be paid to the secretary of state by the party requesting the service of process, to cover the cost of serving process, except the secretary of state may waive the fee for state agencies. The fee must not be included in or paid from any deposit as security for costs or the docket fee required by K.S.A. 60-2001 or 61-4001, and amendments thereto.

(g) *Insurance companies or associations.* Service of summons or other process on any insurance company or association, organized under the laws of this state, may also be made by serving the commissioner of insurance in the same manner as provided for service on foreign insurance companies or associations.

(h) *Service on an employee.* If a party or a party's agent or attorney files an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, that to the best of the affiant's or declarant's knowledge and belief the person to be served is employed in this state, and is a nonresident or that the place of residence of the person is unknown, the affiant or declarant may request that the sheriff or other duly authorized person direct an officer, partner, managing or general agent or the individual having charge of the place at which the person to be served is employed, to make the person available to permit the sheriff or other duly authorized person to serve the summons or other process.

(i) *Service on a series of a limited liability company.* On a series established under a domestic or foreign limited liability company by service on such domestic or foreign limited liability company in the same manner as described in subsections (e) and (f), but if service is made on the resident, managing, general or other agent of the limited liability company upon which service may be made or the secretary of state on behalf of any such series, such service shall include the name of the limited liability company and the name of such series.

Sec. 3. K.S.A. 8-402 and K.S.A. 2020 Supp. 60-304 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 9, 2021.

CHAPTER 35

HOUSE BILL No. 2126
(Amended by Chapter 113)

AN ACT concerning adult care facilities; relating to civil liability for COVID-19 claims; providing immunity therefrom; modifying the definition of adult care facility; amending K.S.A. 2020 Supp. 60-5502, 60-5506 and 60-5508 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 60-5502 is hereby amended to read as follows: 60-5502. As used in the COVID-19 response and reopening for business liability protection act, unless the context otherwise requires:

(a) "~~Adult care~~*Covered* facility" means ~~a "nursing facility," "assisted living facility" or "residential healthcare facility" as those terms are~~*:*

(1) An "adult care home" as defined in K.S.A. 39-923, and amendments thereto*, except that "covered facility" includes a center approved by the centers for medicare and medicaid services as a program for all-inclusive case for the elderly (PACE) under 42 C.F.R. § 460 et seq., that provides services only to PACE participants;*

(2) a "community mental health center" and a "crisis intervention center" as defined in K.S.A. 2020 Supp. 39-2002, and amendments thereto; and

(3) a "community service provider," a "community developmental disability organization" and an "institution" as defined in K.S.A. 2020 Supp. 39-1803, and amendments thereto.

(b) "COVID-19" means the novel coronavirus identified as SARS-CoV-2.

(c) "COVID-19 claim" means any claim for damages, losses, indemnification, contribution or other relief arising out of or based on exposure or potential exposure to COVID-19. "COVID-19 claim" includes a claim made by or on behalf of any person who has been exposed or potentially exposed to COVID-19, or any representative, spouse, parent, child or other relative of such person, for injury, including mental or emotional injury, death or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or other losses allegedly caused by the person's exposure or potential exposure to COVID-19.

(d) "COVID-19 public health emergency" means the state of disaster emergency declared for the state of Kansas on March 12, 2020, any subsequent orders or amendments to such orders and any subsequent disaster emergency declared for the state of Kansas regarding the COVID-19 pandemic.

(e) "Disinfecting or cleaning supplies" includes, but is not limited to, hand sanitizers, disinfectants, sprays and wipes.

(f) "Healthcare provider" means a person or entity that is licensed, registered, certified or otherwise authorized by the state of Kansas to

provide healthcare services in this state, including a hospice certified to participate in the medicare program under 42 C.F.R. § 418 et seq. "Healthcare provider" does not include any entity licensed under chapter 39 of the Kansas Statutes Annotated, and amendments thereto.

(g) "Person" means an individual, for-profit or not-for-profit business entity, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or political subdivision, agency or instrumentality or any other legal or commercial entity.

(h) "Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators or other equipment designed to protect the wearer from the spread of infection or illness.

(i) "Product liability claim" means any strict liability, ordinary negligence or implied warranty claim or action brought for harm caused by the manufacture, production, making, construction, fabrication, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging, storage or labeling of the relevant product.

(j) "Public health directives" means any of the following that is required by law to be followed related to public health and COVID-19:

(1) State statutes, rules and regulations or executive orders issued by the governor pursuant to K.S.A. 48-925, and amendments thereto;

(2) federal statutes or regulations from federal agencies, including the United States centers for disease control and prevention and the occupational safety and health administration of the United States department of labor; or

(3) any lawful order or proclamation issued under authority of the Kansas emergency management act, and amendments thereto, by a board of county commissioners, the governing body of a city or a local health officer.

(k) "Qualified product" means: (1) Personal protective equipment used to protect the wearer from COVID-19 or the spread of COVID-19; (2) medical devices, equipment and supplies used to treat COVID-19, including products that are used or modified for an unapproved use to treat COVID-19 or prevent the spread of COVID-19; (3) medical devices, equipment or supplies utilized outside of the product's normal use to treat COVID-19 or to prevent the spread of COVID-19; (4) medications used to treat COVID-19, including medications prescribed or dispensed for offlabel use to attempt to combat COVID-19; (5) tests used to diagnose or determine immunity to COVID-19; (6) disinfecting or cleaning supplies; (7) clinical laboratory services certified under the federal clinical laboratory improvement amendments in section 353 of the public health service act, 42 U.S.C. § 263a; and (8) components of qualified products.

Sec. 2. K.S.A. 2020 Supp. 60-5506 is hereby amended to read as follows: 60-5506. (a) Notwithstanding any other provision of law, ~~an adult care~~ *a covered* facility ~~shall have an affirmative defense to~~ *is immune from* liability in a civil action for damages~~, administrative fines or penalties~~ for a COVID-19 claim ~~if such facility:~~

~~(1) (A) Was caused, by the facility's compliance with a statute or rule and regulation, to reaccept a resident who had been removed from the facility for treatment of COVID-19; or~~

~~(B) treats a resident who has tested positive for COVID-19 in such facility in compliance with a statute or rule and regulation; and~~

~~(2) is acting pursuant to and in substantial compliance with public health directives.~~

~~(b) As used in this section, "public health directives" means any of the following that is required by law to be followed related to public health and COVID-19:~~

~~(1) State statutes, rules and regulations or executive orders issued by the governor pursuant to K.S.A. 48-925, and amendments thereto; or~~

~~(2) federal statutes or regulations from federal agencies, including the United States centers for disease control and prevention and the occupational safety and health administration of the United States department of labor~~ *if such facility was in substantial compliance with public health directives applicable to the activity giving rise to the cause of action when the cause of action accrued.*

(b) As used in this section, "public health directives" means any of the following that are required by law to be followed related to COVID-19:

(1) State statutes or rules and regulations; or

(2) federal statutes or regulations from federal agencies, including the United States centers for disease control and prevention and the occupational safety and health administration of the United States department of labor.

(c) The provisions of this section shall not apply to civil liability when it is established that the act, omission or decision giving rise to the cause of action constituted gross negligence or willful, wanton or reckless conduct.

Sec. 3. K.S.A. 2020 Supp. 60-5508 is hereby amended to read as follows: 60-5508. (a) The provisions of K.S.A. 2020 Supp. 60-5504, 60-5505 and 60-5507, and amendments thereto, shall apply retroactively to any cause of action accruing on or after March 12, 2020.

(b) The provisions of K.S.A. 2020 Supp. 60-5503 and 60-5506, and amendments thereto, *and the amendments made to K.S.A. 2020 Supp. 60-5506 by section 2 of this act,* shall apply retroactively to any cause of action accruing on or after March 12, 2020, and prior to termination of the state of disaster emergency related to the COVID-19 public health emergency declared pursuant to K.S.A. 48-924, and amendments thereto.

Sec. 4. K.S.A. 2020 Supp. 60-5502, 60-5506 and 60-5508 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 9, 2021.

Published in the *Kansas Register* April 22, 2021.

CHAPTER 36

HOUSE BILL No. 2050

AN ACT concerning the legislative division of post audit; removing the requirement to submit certain documents thereto; amending K.S.A. 22-4514a, 75-3728c, 76-721 and 79-3233b and repealing the existing sections.

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

Section 1. K.S.A. 22-4514a is hereby amended to read as follows: 22-4514a. (a) Any nonprofit corporation, organized under the laws of the state of Kansas for the purpose of providing legal services to indigent inmates of Kansas correctional institutions may submit its annual operating budget for the next fiscal year of the state, including salaries and all other expenses of operation, to the state board of indigents' defense services. Such budget shall set forth the maximum obligation of financial aid and contributions proposed for payment by the state board of indigents' defense services and the availability of any additional funds from the federal government and other sources to meet such operating costs.

(b) If such budget is approved by the state board of indigents' defense services, ~~on July 1 of the next fiscal year~~ the amount of the maximum obligation of financial aid to be paid by the state board of indigents' defense services as set forth in the approved budget may then be paid in a lump sum *amount* to the corporation *on July 1 of the next fiscal year*.

(c) After the end of the fiscal year, any such nonprofit corporation shall furnish ~~to the post auditor and the director of the budget~~ an audited statement of actual expenditures incurred *to the director of the budget*. Any balance remaining unused shall be applied to the next budget for the purposes specified in this section.

Sec. 2. K.S.A. 75-3728c is hereby amended to read as follows: 75-3728c. ~~(a) Thirty (30) days from the date the director of accounts and reports authorizes the write-off of any accounts receivable or taxes receivable, the director shall certify to the legislative post audit committee a summary of all such receivables which are written off.~~

~~(b)~~ The secretary of administration shall adopt rules and regulations as provided in K.S.A. 75-3706*, and amendments thereto,* specifying the conditions ~~which~~ *that* shall apply to the write-off of accounts receivable and taxes receivable. Any such rule and regulation may apply generally or be limited to receivables of certain state agencies or institutions or to certain classes of receivables.

Sec. 3. K.S.A. 76-721 is hereby amended to read as follows: 76-721. The board of regents, or any state educational institution with the approval of the board of regents, may enter into contracts with any party or parties including any agency of the United States or any state or any

subdivision of any state or with any person, partnership or corporation if the purpose of such contract is related to the operation or function of such board or institution. If such contract is with a corporation whose operations are substantially controlled by the board or any state educational institution, such contract shall provide that the books and records of such corporation shall be public records and shall require an annual audit by an independent certified public accountant to be furnished to the board of regents ~~and filed with the state agency in charge of post auditing state expenditures~~. All contracts of state educational institutions shall be subject to the provisions of K.S.A. 75-3711b, and amendments thereto.

Sec. 4. K.S.A. 79-3233b is hereby amended to read as follows: 79-3233b. (a) The secretary shall maintain a record of each abatement that reduces a final tax liability by $5,000 or more. Such record shall contain: (1) The name and address of the taxpayer, and the petitioner, if different; (2) the disputed tax liability including penalty and interest; (3) the taxpayer's grounds for contesting the liability together with all supporting evidence; (4) all staff recommendations, reports and audits; (5) the reasons for, conditions to, and the amount of the abatement; and (6) the payment made, if any. Such records shall be maintained by the department for nine years.

(b) The secretary shall make an annual report that identifies the taxpayer, summarizes the issues and the reasons for abatement, and states the amount of liability that was abated pursuant to this section for each abatement that reduced a final tax liability by $5,000 or more. The secretary shall file the report with the secretary of state~~, the division of post audit of the legislature~~ and the attorney general on or before September 30 of each year. Any other provision of law notwithstanding, the secretary shall make the annual report available for public inspection upon written request.

~~(c) In order to express the intent of the legislature upon first enactment of this section, the provisions of this section and amendments enacted herein shall be effective retroactively to the original enactment of this section on and after July 1, 1999.~~

Sec. 5. K.S.A. 22-4514a, 75-3728c, 76-721 and 79-3233b 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 9, 2021.

CHAPTER 37

HOUSE BILL No. 2162
(Amended by Chapter 113)

AN ACT concerning census data; relating to data used in adopting senatorial and representative district boundaries; conforming law with certain amendments to the Kansas constitution and repealing certain obsolete provisions; making conforming revisions to certain references; amending K.S.A. 11-210 and K.S.A. 2020 Supp. 11-201, 17-2205 and 45-229 and repealing the existing sections; also repealing K.S.A. 11-204, 11-205, 11-206, 11-207, 11-208, 11-301, 11-302, 11-303, 11-304, 11-305, 11-306 and 11-307.

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

New Section 1. Population data used in adopting senatorial and representative district boundaries shall be identical to the decennial census data from the actual enumeration conducted by the United States bureau of the census and used for the apportionment of the United States house of representatives. Bureau of the census counts derived by any other means, including the use of statistical sampling, to add or subtract population by inference shall not be used.

Sec. 2. K.S.A. 2020 Supp. 11-201 is hereby amended to read as follows: 11-201. (a) Except as otherwise provided in ~~subsections~~ *subsection* (b) ~~and (c)~~, the most recent population figures available from the United States bureau of the census as certified to the secretary of state by the division of the budget on July 1 of each year shall be used for all purposes in the application of the statutes of this state. Whenever the use of the population figures or the census of the Kansas department of agriculture is referred to or designated by a statute, such reference or designation shall be deemed to mean the population figures certified to the secretary of state pursuant to this section. The city and county population figures certified to the secretary of state pursuant to this section shall be distributed by the division of the budget to the cities and counties of the state and to such other governmental entities as the division deems appropriate and shall be made available by the division upon request of any other person.

The population figures certified to the secretary of state pursuant to this section shall be disposed of in accordance with K.S.A. 75-3501 et seq., and amendments thereto.

(b) On July 1 of each year, the division of the budget shall distribute to the treasurer of each county and to the secretary of revenue a table showing the total population of the county, the total population of the county residing outside the boundaries of any incorporated city and the population of each incorporated city within the county, using the most recent information which is available from the United States bureau of the census and which provides actual or estimated population figures for both cities and counties as of the same date. Such table shall be used as

the basis for apportioning revenue from any countywide retailers' sales tax pursuant to K.S.A. 12-192, and amendments thereto.

~~(c) Population figures established by the enumeration authorized under K.S.A. 11-204 to 11-208, and amendments thereto, shall be used only as a basis for the reapportionment of any state legislative districts, reapportionment of which is authorized pursuant to section 1 of article 10 of the constitution of the state of Kansas, in the year 1989, and for such other purposes as shall be specifically authorized by K.S.A. 11-204, and amendments thereto.~~

Sec. 3. K.S.A. 11-210 is hereby amended to read as follows: 11-210. Notwithstanding the provisions of K.S.A. ~~11-304 and~~ 11-321, and amendments thereto, *and section 1, and amendments thereto,* for the purpose of making applications for grants, the secretary of state and any political subdivision of the state may use any census data available.

Sec. 4. K.S.A. 2020 Supp. 17-2205 is hereby amended to read as follows: 17-2205. (a) (1) The membership shall consist of the organizers and such persons, societies, associations, copartnerships and corporations as have been duly elected to membership and have subscribed to one or more shares and have paid for the same, and have complied with such other requirements as the articles of incorporation may contain.

(2) Once a person becomes a member of the credit union, such person may remain a member of the credit union until the person chooses to withdraw or is expelled from the membership of the credit union.

(3) Members of a credit union also may include the following:

(A) The spouse of any person who died while such person was within the field of membership of the credit union;

(B) any employee of the credit union;

(C) any person who retired from any qualified employment group within the field of membership;

(D) any person of a volunteer group recognized by the management of the association or employee group within the field of membership and such person: (i) Has completed a training program offered by the volunteer group to further its goals; (ii) serves on the board of the volunteer group; or (iii) serves as an officer of the volunteer group;

(E) any member of such person's immediate family or household;

(F) any organization whose membership consists of persons within the field of membership; and

(G) any corporate or other legal entity within the field of membership as identified in the charter, articles of incorporation or bylaws of the credit union.

(4) For the purposes of ~~subparagraph (E) of~~ paragraph (3)*(E)*:

(A) Except as provided in subparagraph (B), the term "immediate family or household" shall mean spouse, parent, stepparent, grandparent,

child, stepchild, sibling, grandchild or former spouse and persons living in the same residence maintaining a single economic unit with persons within the credit union's field of membership.

(B) If the credit union's bylaws adopted a definition of immediate family before June 30, 2008, the credit union may use that definition. A credit union may adopt a more restrictive definition of immediate family or household.

(C) If authorized in the credit union's bylaws, a member of the immediate family or household is eligible to join even when the eligible member has not joined the credit union.

(b) (1) Credit union organizations shall be limited to:

(A) A group having a single common bond of occupation or association;

(B) a group having multiple common bonds of occupation or association or any combination thereof. No such group shall have a membership of more than 3,000 except as permitted in ~~subsections~~ *subsection* (c) or (d); or

(C) persons residing, working or worshiping in or organizations located within a geographic area.

(2) A common bond of occupation may include employees of the same employer, workers under contract with the same employer, businesses paid by the same employer on a continuing basis or employees in the same trade, industry or profession.

(3) A common bond of association may include members and employees of a recognized association as defined in such association's charter, bylaws or other equivalent document.

(c) A credit union which chooses to be limited as provided in ~~subparagraph (C) of paragraph (1) of~~ subsection (b)*(1)(C)* may include one or more common bonds of occupation or one or more common bonds of association or any combination thereof with no limitation on the number of members, if the employer or association is located in the geographic area of the credit union.

(d) A group formed with multiple common bonds of occupation or association may exceed 3,000 members if the administrator determines in writing that such group could not feasibly or reasonably establish a new single common bond credit union because the group:

(1) Lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

(2) does not meet the criteria established by the administrator indicating a likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or

(3) would be unlikely to be able to operate in a safe and sound manner.

(e) (1) A geographic area may include:

(A) A single political jurisdiction;

(B) multiple contiguous political jurisdictions if the aggregate total of the population of the geographic area does not exceed 500,000, except as provided in subparagraph (C) or in subsections (i), (j), (k) and (l); or

(C) if the headquarters of the credit union is located in a MSA, the geographic area may include one or more political jurisdictions which share a common border to the MSA if the aggregate total of the population of the geographic area does not exceed 1,000,000. The maximum population available for any credit union whose headquarters is located within a MSA shall be adjusted by the administrator based upon the population data for the largest MSA in the state of Kansas, or any portion thereof located within the state of Kansas. The maximum population available for any credit union whose headquarters is located within a MSA shall be determined by multiplying the population of the largest MSA in the state of Kansas, or that portion of such MSA located within the state of Kansas if the boundaries of such MSA extend outside the state of Kansas, as determined by the most recent population data, by the fraction having a numerator of 1,000,000 and a denominator of 750,000 for the purposes of this section, the administrator shall use population data ~~based upon the adjusted federal census information presented to the legislature by the secretary of state pursuant to K.S.A. 11-304, and amendments thereto~~ *as defined in subsection (g)*.

(2) Except as provided in subsections (i), (j), (k) and (l), from and after July 1, 2008, no geographic area shall consist of any congressional district or the entire state of Kansas.

(f) (1) Except as provided in subsections (i), (j), (k) and (l), from and after July 1, 2008, no credit union shall change or alter its field of membership except as provided in this section. Before a credit union can alter or change its field of membership, such credit union shall file, or cause to be filed, with the administrator, an application for amendment to its field of membership. The application shall include:

(A) Documentation showing that the proposed area or groups to be served meets the statutory requirements for field of membership set forth in this statute;

(B) pro forma financial statements for the first two years after the proposed alteration of or change in field of membership, including any assumption regarding growth in membership, shares, loans and assets;

(C) a marketing plan addressing how the proposed field of membership will be served;

(D) the financial services to be provided to the credit union's members;

(E) a local map showing the location of both current and proposed headquarters and branches; and

(F) the anticipated financial impact on the credit union in terms of need for additional employees and fixed assets.

(2) (A) The application shall also include a proof of publication of the notice that the affected credit union intends to file or has filed an application to alter or change its field of membership. Such notice shall be in the form prescribed by the administrator and shall at a minimum contain the name and address of the applicant credit union and a description of the proposed alteration of or change in the field of membership.

(B) The notice shall be published for two consecutive weeks in the Kansas register. The required publications shall occur within 60 days of and prior to the effective date of the proposed change. The applicant shall provide proof of publication to the administrator.

(g) For the purposes of this section:

(1) "MSA" means a metropolitan statistical area as defined by the United States department of commerce ~~which~~ *that* has more than one county located in Kansas. If the boundaries of such MSA extend outside the state of Kansas only that portion of such MSA located within the state of Kansas shall be considered for the purposes of this section.

(2) "Political jurisdiction" means a city, county, township or clearly identifiable neighborhood.

(3) "Population data" means official state population figures for the state of Kansas, or any portion thereof, which are identical to the decennial census data from the actual enumeration conducted by the United States bureau of the census and used for the apportionment of the United States house of representatives in accordance with ~~K.S.A. 11-304~~ *section 1*, and amendments thereto.

(h) No increase in the population reflected by the population data shall require a modification to a field of membership as in existence on June 30, 2008.

(i) Notwithstanding any other provisions of this section, any person, including any member of such person's immediate family or household, or organization that is a member of any credit union which was in existence on June 30, 2008, may continue to be a member of such credit union after such date. For the purposes of this subsection, if the term "member" refers to an individual, the term member may include any other person who is a member of such individual's immediate family or household as specified in subsection (a).

(j) (1) Notwithstanding any other provisions of this section:

(A) Any branch of a credit union that is in existence as of February 1, 2008, may continue to operate in the county where it is located on and after June 30, 2008. If such branch is unable to continue operations due

to a natural disaster, eminent domain proceedings, loss of lease, loss of sponsor space or any condition outside of the control of the credit union, the credit union may establish a replacement branch in that county.

(B) Any credit union ~~which~~ *that* has taken an overt step toward the construction of a new building, facility or branch on or before February 1, 2008, may continue to construct and operate the new building, facility or branch in the city in which such new building, facility or branch is located even if the construction is not completed on or before June 30, 2008. If such branch is unable to continue operations due to a natural disaster, eminent domain proceedings, loss of lease, loss of sponsor space or any condition outside of the control of the credit union, the credit union may establish a replacement branch in that city.

(2) For the purposes of this subsection, the term "overt act" includes the:

(A) Purchase of or entering into a contract for the purchase of any necessary tract of land for the location of such new building, facility or branch of an existing credit union.

(B) Acquisition or lease of a building for the purpose of housing a new facility or branch of an existing credit union.

(C) Adoption of architectural drawings for the construction of a new building, facility or branch of an existing credit union.

(D) Adoption of architectural drawings for the renovation of an existing building for use as a facility or branch of an existing credit union.

(k) Notwithstanding any other provisions of this section, a member of any occupation or association group whose members constituted a portion of the membership of any credit union as of February 1, 2008, shall continue to be eligible to become a member of that credit union, by virtue of membership in that group on and after June 30, 2008. For purposes of this subsection, a patron of an organization is eligible for membership if such patron is an individual who uses the products and services of the organization which is included in the field of membership of the credit union at the time the patron applies for membership in the credit union.

(l) Notwithstanding any other provisions of this section, any credit union:

(1) ~~Which~~*That* has been granted a field of membership on or before February 1, 2008, which includes the entire state of Kansas or its residents shall, on or before January 1, 2009, adopt a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population not to exceed 1,000,000. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total. Any credit union with its headquarters located in a county that is not part of a MSA shall not include more than one MSA in its entirety in its adopted field of membership.

(2) With its headquarters located within a MSA as of February 1, 2008, may continue to include multiple contiguous political jurisdictions that were included in its field of membership as of February 1, 2008, if the aggregate total population of such multiple contiguous political jurisdictions does not exceed 1,000,000. If the field of membership of any credit union involves multiple contiguous political jurisdictions that have an aggregate total population that exceeds 1,000,000 as of February 1, 2008, then such credit union shall, on or before January 1, 2009, adopt a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population which does not exceed 1,000,000. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total.

(3) With headquarters located in a county that is not part of a MSA may continue to include multiple contiguous political jurisdictions that were included in its field of membership as of February 1, 2008, if the aggregate total population of such multiple contiguous political jurisdictions does not exceed 1,000,000 population total. If the field of membership of any credit union involves multiple contiguous political jurisdictions that have an aggregate total population that exceeds 1,000,000 as of February 1, 2008, then such credit union shall, on or before January 1, 2009, adopt a field of membership that may include multiple contiguous political jurisdictions having an aggregate total population which does not exceed 1,000,000 population total. The population of the county of any branch of such credit union not located within the adopted field of membership shall not be included in the 1,000,000 population total. The adopted field of membership of such credit union shall not include more than one MSA in its entirety.

Sec. 5. K.S.A. 2020 Supp. 45-229 is hereby amended to read as follows: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

(1) The public record is of a sensitive or personal nature concerning individuals;

(2) the public record is necessary for the effective and efficient administration of a governmental program; or

(3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of

open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception that will expire in the following year that 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 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 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 that would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of such 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 that is used to protect or further a business advantage over those who do not know or use it, if the disclosure of such 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) 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 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, 72-2232, 72-3438, 72-6116, 72-6267, 72-9934, 73-1228, 74-2424, 74-2433f, 74-32,419, 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, 76-12c03, 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 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, 72-3415, 74-50,217 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 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 that have been reviewed during the 2016 legislative session are hereby continued in existence: 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 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 2016 and that have been reviewed during the 2017 legislative session are hereby continued in existence: 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 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, 72-8268, 75-712 and 75-5366.

(n) 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 that have been reviewed during the 2018 legislative session are hereby continued in existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832, 65-6834, 75-7c06 and 75-7c20.

(o) 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) that have been reviewed during the 2019 legislative session are hereby continued in existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d) and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article 6(d) of 65-6230, 72-6314(a) and 74-7047(b).

(p) 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) that have been reviewed during the 2020 legislative session are hereby continued in existence: 38-2310(c), 40-409(j)(2), 40-6007(a), 45-221(a)(52), 46-1129, 59-29a22(b)(10) and 65-6747.

Sec. 6. K.S.A. 11-204, 11-205, 11-206, 11-207, 11-208, 11-210, 11-301, 11-302, 11-303, 11-304, 11-305, 11-306 and 11-307 and K.S.A. 2020 Supp. 11-201, 17-2205 and 45-229 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 9, 2021.

CHAPTER 38

HOUSE BILL No. 2214*

AN ACT concerning state property; authorizing the secretary of administration on behalf of the department of corrections to convey land in Mitchell county to the city of Beloit; providing the procedure for the conveyance; relating to the payment of costs; requiring approval by the attorney general.

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

Section 1. (a) The secretary of the department of administration is hereby authorized and empowered, for and on behalf of the department of corrections, to convey, without consideration, all of the rights, title and interest in the following described real estate, and any improvements thereon, to the city of Beloit, Kansas:

A Tract of land in the Northeast Quarter of Section Four (4), Township Seven (7) South, Range Seven (7) West of the 6th P.M., Mitchell County, Kansas, more particularly described as follows: Beginning at the Southwest corner of the Northeast Quarter (NE/4) of Section Four (4), Township Seven (7), Range Seven (7); thence North along quarter section line a distance of Seven Hundred Fifty-nine (759) feet; thence East at a Ninety degree (90°) angle a distance of Three Hundred Ninety-six (396) feet; thence South at a Ninety degree (90°) angle a distance of Seven Hundred Fifty-nine (759) feet; thence West along South line of Northeast Quarter (NE/4), Section Four (4), Township Seven (7), Range Seven (7), a distance of Three Hundred Ninety-six (396) feet to the point of beginning, containing Six and Thirty-eight Hundredths (6.38) acres more or less, exclusive of Thirty (30) feet along West side for Highway right-of-way.

(b) Conveyance of such rights, title and interest in such real estate and any improvements thereon shall be executed in the name of the department of administration executed by the secretary of administration. The deed for such conveyance shall be by quitclaim deed.

(c) No exchange and conveyance of real estate and any improvements thereon as authorized by this section shall be made by the secretary of administration until the deeds and conveyances have been reviewed and approved by the attorney general.

(d) All costs in any way related to the conveyance shall be paid by the city of Beloit, Kansas. 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.

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

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

Approved April 9, 2021.

CHAPTER 39

HOUSE BILL No. 2367
(Amended by Chapter 113)

AN ACT concerning the state corporation commission; relating to public utilities; authorizing regulation of certain wire stringing activities; amending K.S.A. 66-104 and repealing the existing section.

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

Section 1. K.S.A. 66-104 is hereby amended to read as follows: 66-104. (a) The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. No cooperative, cooperative society, nonprofit or mutual corporation or association ~~which~~ *that* is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office facilities, shall be subject to the jurisdiction and control of the commission as provided herein, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. ~~As used herein,~~ The term "transmission of telephone messages" shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

(b) The term "public utility" shall also include that portion of every municipally owned or operated electric or gas utility located in an area outside of and more than three miles from the corporate limits of such municipality, but regulation of the rates, charges and terms and conditions of service of such utility within such area shall be subject to commission regulation only as provided in K.S.A. 66-104f, and amendments thereto. Nothing in this act shall apply to a municipally owned or operated utility, or portion thereof, located within the corporate limits of such municipality or located outside of such corporate limits but within three miles thereof ~~except as provided in K.S.A. 66-131a, and amendments thereto~~.

(c) Except as herein provided, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city, subject

only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of K.S.A. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be deemed to be a public utility as that term is used in this act and~~, as such,~~ shall be subject to the jurisdiction of the commission.

(d) The term "public utility" shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.

(e) *(1) Except as provided in paragraph (2),* at the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility ~~which~~ *that*:

~~(1)~~*(A)* Is newly constructed and placed in service on or after January 1, 2001; and

~~(2)~~*(B)* is not in the rate base of:

~~(A)~~*(i)* An electric public utility that is subject to rate regulation by the state corporation commission;

~~(B)~~*(ii)* any cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or

~~(C)~~*(iii)* a municipally owned or operated electric utility.

(2) The provisions of this subsection shall not be construed to affect the authority of the state corporation commission to regulate any activity or facility of an otherwise jurisdictional entity with regard to wire stringing pursuant to K.S.A. 66-183 et seq., and amendments thereto.

(f) Additional generating capacity achieved through efficiency gains by refurbishing or replacing existing equipment at generating facilities placed in service before January 1, 2001, shall not qualify under subsection (e).

(g) For purposes of the authority to appropriate property through eminent domain, the term "public utility" shall not include any activity for the siting or placement of wind powered electrical generators or turbines, including the towers.

Sec. 2. K.S.A. 66-104 is hereby repealed.

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

Approved April 9, 2021.

CHAPTER 40

SENATE BILL No. 172

AN ACT concerning crimes, punishment and criminal procedure; creating the crimes of trespassing on a critical infrastructure facility and criminal damage to a critical infrastructure facility; eliminating the crime of tampering with a pipeline; requiring payment of restitution; amending K.S.A. 2020 Supp. 21-5818, 21-6328 and 21-6604 and repealing the existing sections.

WHEREAS, The provisions of this act protect the right to peacefully protest for all Kansans and citizens of the four sovereign nations within the state's borders while also protecting the critical infrastructure located within the state.

Now, therefore:

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

Section 1. K.S.A. 2020 Supp. 21-5818 is hereby amended to read as follows: 21-5818. (a) ~~Tampering with a pipeline is the knowing and unauthorized alteration of or interference with any part of a pipeline~~ *Trespassing on a critical infrastructure facility is, without consent of the owner or the owner's agent, knowingly entering or remaining in:*

(1) A critical infrastructure facility; or

(2) any property containing a critical infrastructure facility, if such property is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders or is clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization.

(b) ~~Tampering with a pipeline is a severity level 6, nonperson felony~~ *Aggravated trespassing on a critical infrastructure facility is:*

(1) Knowingly entering or remaining in:

(A) A critical infrastructure facility; or

(B) any property containing a critical infrastructure facility, if such property is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders or is clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization; and

(2) with the intent to damage, destroy or tamper with a critical infrastructure facility or impede or inhibit operations of the facility.

(c) Criminal damage to a critical infrastructure facility is knowingly damaging, destroying or tampering with a critical infrastructure facility.

(d) Aggravated criminal damage to a critical infrastructure facility is knowingly damaging, destroying or tampering with a critical infrastructure facility with the intent to impede or inhibit operations of the facility.

(e)(1) Trespassing on a critical infrastructure facility is a class A nonperson misdemeanor.

(2) Aggravated trespassing on a critical infrastructure facility is a severity level 7, nonperson felony.

(3) Criminal damage to a critical infrastructure facility is a severity level 6, nonperson felony.

(4) Aggravated criminal damage to a critical infrastructure facility is a severity level 5, nonperson felony.

(f) Nothing in this section shall be construed to prevent:

(1) An owner or operator of a critical infrastructure facility that has been damaged from pursuing any other remedy in law or equity; or

(2) a person who violates the provisions of this section from being prosecuted for, convicted of and punished for any other offense in article 58 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 66-2303, and amendments thereto.

~~(e)~~*(g)* As used in this section~~:~~

~~(1) "Alteration of or interference with any part of a pipeline" includes, but is not limited to, any adjustment, opening, removal, change or destruction of any part of any pipeline; and~~

~~(2) "pipeline" means any pipeline, and any related facility, building, structure or equipment, used in gathering, transmission or transportation of natural gas, crude oil, petroleum products or anhydrous ammonia. "Pipeline" does not include distribution lines that convey natural gas from a gas main to the ultimate consumer~~*, "critical infrastructure facility" means any:*

(1) Petroleum or alumina refinery;

(2) electric generation facility, substation, switching station, electrical control center, electric distribution or transmission lines, or associated equipment infrastructure;

(3) chemical, polymer or rubber manufacturing facility;

(4) water supply diversion, production, treatment, storage or distribution facility and appurtenances, including, but not limited to, underground pipelines and a wastewater treatment plant or pump station;

(5) natural gas compressor station;

(6) liquid natural gas or propane terminal or storage facility;

(7) facility that is used for wireline, broadband or wireless telecommunications or video services infrastructure, including backup power supplies and cable television headend;

(8) port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility;

(9) gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas, propane or natural gas liquids;

(10) transmission facility used by a federally licensed radio or television station;

(11) steelmaking facility that uses an electric arc furnace to make steel;

(12) facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program, a facility operated by the office of laboratory services under the supervision of the secretary of health and environment pursuant to K.S.A. 75-5608, and amendments thereto, the national bio and agro-defense facility or the biosecurity research institute at Kansas state university;

(13) dam that is regulated by the state as a hazard class B or C dam or by the federal government;

(14) natural gas distribution utility facility or natural gas transmission facility, including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, belowground or aboveground piping, a regular station or a natural gas storage facility;

(15) crude oil, including y-grade or natural gas liquids, or refined products storage and distribution facility, including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, belowground or aboveground pipeline or piping and truck loading or offloading facility; or

(16) portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or any other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

Sec. 2. K.S.A. 2020 Supp. 21-6328 is hereby amended to read as follows: 21-6328. As used in the Kansas racketeer influenced and corrupt organization act:

(a) *(1)* "Beneficial interest" means:

~~(1)~~*(A)* The interest of a person as a beneficiary under any trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

~~(2)~~*(B)* the interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

(2) The term "beneficial interest" does not include the interest of a stock holder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(b) "Covered person" means any person who:

(1) Is a criminal street gang member or criminal street gang associate, as defined in K.S.A. 2020 Supp. 21-6313, and amendments thereto;

(2) has engaged in or is engaging in any conduct prohibited by K.S.A. 2020 Supp. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking, or K.S.A. 2020 Supp. 21-6422, and amendments thereto, commercial sexual exploitation of a child; or

(3) has engaged in or is engaging in any conduct prohibited by K.S.A. 2020 Supp. 21-5703, and amendments thereto, unlawful manufacturing of controlled substances, or K.S.A. 2020 Supp. 21-5705, and amendments thereto, unlawful cultivation or distribution of controlled substances.

(c) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(d) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal street gang, as defined in K.S.A. 2020 Supp. 21-6313, and amendments thereto, constitutes an enterprise.

(e) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within ~~5~~ *five* years, excluding any period of imprisonment, after a prior incident of racketeering activity.

(f) "Racketeering activity" means to commit, attempt to commit, conspire to commit or to solicit, coerce or intimidate another person to commit:

(1) Any felony or misdemeanor violation of: The felony provisions of K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas money transmitter act; article 12a of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, Kansas uniform securities act; K.S.A. 2020 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 2020 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 2020 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 2020 Supp. 21-5408, and amendments thereto, kidnapping or aggravated kidnapping; K.S.A. 2020 Supp. 21-5412, and amendments thereto; K.S.A. 2020 Supp. 21-5413, and amendments thereto; K.S.A. 2020 Supp. 21-5414, and amendments thereto, domestic battery; K.S.A. 2020 Supp. 21-5415, and amendments thereto, criminal threat or aggravated criminal threat; K.S.A. 2020 Supp. 21-5420, and amendments thereto, robbery or aggravated robbery; K.S.A. 2020 Supp. 21-5421, and amendments thereto, terrorism; K.S.A. 2020 Supp. 21-5422, and amendments thereto, illegal use of weapons of mass destruction; K.S.A. 2020

Supp. 21-5423, and amendments thereto; K.S.A. 2020 Supp. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking; K.S.A. 2020 Supp. 21-5428, and amendments thereto, blackmail; K.S.A. 2020 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 2020 Supp. 21-5601, and amendments thereto, endangering a child or aggravated endangering a child; K.S.A. 2020 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A. 2020 Supp. 21-5603, and amendments thereto, contributing to a child's misconduct or deprivation; K.S.A. 2020 Supp. 21-5607(b), and amendments thereto, furnishing alcoholic beverages to a minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, crimes involving controlled substances; K.S.A. 2020 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2020 Supp. 21-5803, and amendments thereto, criminal deprivation of property; K.S.A. 2020 Supp. 21-5805, and amendments thereto; K.S.A. 2020 Supp. 21-5807, and amendments thereto, burglary or aggravated burglary; K.S.A. 2020 Supp. 21-5812, and amendments thereto, arson or aggravated arson; K.S.A. 2020 Supp. 21-5813, and amendments thereto, criminal damage to property; K.S.A. 2020 Supp. 21-5814, and amendments thereto, criminal use of an explosive; ~~K.S.A. 2020 Supp. 21-5818, and amendments thereto, tampering with a pipeline;~~ K.S.A. 2020 Supp. 21-5821, and amendments thereto, giving a worthless check; K.S.A. 2020 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2020 Supp. 21-5824, and amendments thereto, making false information; K.S.A. 2020 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2020 Supp. 21-5826, and amendments thereto, destroying written instrument; K.S.A. 2020 Supp. 21-5828, and amendments thereto, criminal use of a financial card; K.S.A. 2020 Supp. 21-5838, and amendments thereto, conducting a pyramid promotional scheme; K.S.A. 2020 Supp. 21-5839, and amendments thereto; K.S.A. 2020 Supp. 21-5903, and amendments thereto, perjury; K.S.A. 2020 Supp. 21-5904, and amendments thereto, interference with law enforcement; K.S.A. 2020 Supp. 21-5905, and amendments thereto, interference with the judicial process; K.S.A. 2020 Supp. 21-5909, and amendments thereto, intimidation of a witness or victim or aggravated intimidation of a witness or victim; K.S.A. 2020 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2020 Supp. 21-5913, and amendments thereto, obstructing apprehension or prosecution; K.S.A. 2020 Supp. 21-5918, and amendments thereto; K.S.A. 2020 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2020 Supp. 21-6002, and amendments thereto, official misconduct; K.S.A. 2020 Supp. 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2020 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon; K.S.A. 2020 Supp. 21-6303, and amendments thereto, criminal distribution of firearms to a felon; K.S.A. 2020 Supp. 21-6304, and amendments thereto,

criminal possession of a firearm by a convicted felon; K.S.A. 2020 Supp. 21-6305, and amendments thereto, aggravated weapons violation by a convicted felon; K.S.A. 2020 Supp. 21-6306, and amendments thereto, defacing identification marks of a firearm; K.S.A. 2020 Supp. 21-6308, and amendments thereto, criminal discharge of a firearm; K.S.A. 2020 Supp. 21-6310, and amendments thereto, unlawful endangerment; K.S.A. 2020 Supp. 21-6312, and amendments thereto; K.S.A. 2020 Supp. 21-6314, and *amendments thereto, recruiting criminal street gang membership; K.S.A. 2020 Supp.* 21-6315, and amendments thereto*, criminal street gang intimidation*; K.S.A. 2020 Supp. 21-6401, and amendments thereto, promoting obscenity or promoting obscenity to minors; K.S.A. 2020 Supp. 21-6404, and amendments thereto, gambling; K.S.A. 2020 Supp. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 2020 Supp. 21-6406, and amendments thereto, commercial gambling; K.S.A. 2020 Supp. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 2020 Supp. 21-6408, and amendments thereto; K.S.A. 2020 Supp. 21-6409, and amendments thereto, installing communication facilities for gamblers; K.S.A. 2020 Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2020 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A. 2020 Supp. 21-6419, and amendments thereto, selling sexual relations; K.S.A. 2020 Supp. 21-6420, and amendments thereto, promoting the sale of sexual relations; K.S.A. 2020 Supp. 21-6422, and amendments thereto, commercial sexual exploitation of a child; K.S.A. 2020 Supp. 21-6501, and amendments thereto, extortion; K.S.A. 2020 Supp. 21-6502, and amendments thereto, debt adjusting; K.S.A. 2020 Supp. 21-6504, and amendments thereto, equity skimming; K.S.A. 2020 Supp. 21-6506, and amendments thereto, commercial bribery; K.S.A. 2020 Supp. 21-6507, and amendments thereto, sports bribery; K.S.A. 2020 Supp. 21-6508, and amendments thereto, tampering with a sports contest; K.S.A. 39-720, and amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and amendments thereto, workers' compensation act; K.S.A. 65-1657, and amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441, and amendments thereto, hazardous waste; K.S.A. 65-4167, and amendments thereto, trafficking in counterfeit drugs; article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; or K.S.A. 79-3321, and amendments thereto, Kansas cigarette and tobacco products act; or

(2) any conduct defined as "racketeering activity" under 18 U.S.C. § 1961(1).

(g) "Real property" means any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(h) *(1)* "Trustee" means:

~~(1)~~*(A)* Any person acting as trustee pursuant to a trust in which the trustee holds legal or record title to real property;

~~(2)~~*(B)* any person who holds legal or record title to real property in which any other person has a beneficial interest; or

~~(3)~~*(C)* any successor trustee or trustees to any or all of the foregoing persons.

(2) The term "trustee" does not include any person appointed or acting as a personal representative as defined in K.S.A. 59-102, and amendments thereto, or appointed or acting as a trustee of any testamentary trust or as a trustee of any indenture of trust under which any bonds have been or are to be issued.

(i) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(1) In violation of any of the following provisions of law: Article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; K.S.A. 2020 Supp. 21-6404, and amendments thereto, gambling; K.S.A. 2020 Supp. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 2020 Supp. 21-6406, and amendments thereto, commercial gambling; K.S.A. 2020 Supp. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 2020 Supp. 21-6408, and amendments thereto, unlawful possession of a gambling device; or K.S.A. 2020 Supp. 21-6409, and amendments thereto, installing communication facilities for gamblers; or

(2) in gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

Sec. 3. K.S.A. 2020 Supp. 21-6604 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to

such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567 or 8-2,144, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by K.S.A. 2020 Supp. 21-6602(c), and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity that materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 2020 Supp. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire company responding to a fire that has been determined to be arson or aggravated arson as defined in K.S.A. 2020 Supp. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation that leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in K.S.A. 2020 Supp. 21-6804(i), and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;

(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A. 22-2802, and amendments thereto;

(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12); or

(14) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime. Restitution shall be due immediately unless: (A) The court orders that the defendant be given a specified time to pay or be allowed to pay in specified installments; or (B) the court finds compelling circumstances that would render restitution unworkable, either in whole or in part. In regard to a violation of K.S.A. 2020 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. In regard to a violation of K.S.A. 2020 Supp. 21-5801, 21-5807 ~~or~~, 21-5813 *or 21-5818*, and amendments thereto, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. If the court finds restitution unworkable, either in whole or in part, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant that may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from

the date restitution is ordered by the court, a defendant is found to be in noncompliance with the restitution order, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the judicial administrator pursuant to K.S.A. 20-169, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(3) If a restitution order entered prior to the effective date of this act does not give the defendant a specified time to pay or set payment in specified installments, the defendant may file a motion with the court prior to December 31, 2020, proposing payment of restitution in specified installments. The court may recall the restitution order from the agent assigned pursuant to K.S.A. 20-169, and amendments thereto, until the court rules on such motion. If the court does not order payment in specified installments or if the defendant does not file a motion prior to December 31, 2020, the restitution shall be due immediately.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by K.S.A. 2020 Supp. 21-6602(d), and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court that sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2020 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time when the defendant would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the defendant not been granted release by the court pursuant to K.S.A. 2020 Supp. 21-6608(d), and amendments thereto, or the prisoner review board pursuant to K.S.A. 22-3717, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2020 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed consecutively pursuant to the provisions of K.S.A. 2020 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sen-

tencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2020 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2020 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp's or community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center.

(h) In committing a defendant to the custody of the secretary of corrections, the court shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or part of the expenditures by the state board of indigents' defense services to provide counsel

and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court that sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate:

(1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense that is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, or for an offense that is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and such offense does not meet the requirements of K.S.A. 2020 Supp. 21-6824, and amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 2020 Supp. 21-6608, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) (1) Except as provided by K.S.A. 2020 Supp. 21-6630 and 21-6805(f), and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 2020 Supp. 21-5706, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2020 Supp. 21-6824, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 75-52,144, and amendments thereto, including, but not limited to, an approved after-care plan. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the defendant's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to sanction or revocation pursuant to the provisions of K.S.A. 22-3716, and amendments thereto. If the defendant's probation is revoked, the defendant shall serve the underlying prison sentence as established in K.S.A. 2020 Supp. 21-6805, and amendments thereto.

(A) Except as provided in subsection (n)(2)(B), for those offenders who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon completion of the underlying prison sentence, the offender shall not be subject to a period of postrelease supervision.

(B) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation is revoked pursuant to 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), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2020 Supp. 21-5706, and amendments thereto, in which the

trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order that places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license, which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the divi-

sion for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" mean the same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A. 2020 Supp. 22-4616, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required to pay for the assessment and, unless otherwise ordered by the court or the department of corrections, for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such

rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2020 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order of the court, unless the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses to waive such right.

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in K.S.A. 22-3716(c)(1)(B), and amendments thereto, without further order of the court unless the defendant, after being apprised of the right to a revocation hearing before the court pursuant to K.S.A. 22-3716(b), and amendments thereto, refuses to waive such right.

(u) In addition to any of the above, the court shall authorize an additional 18 days of confinement in a county jail to be reserved for sanctions as set forth in K.S.A. 22-3716(b)(3)(B), (b)(4) or (c)(1)(B), and amendments thereto.

(v) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively.

Sec. 4. K.S.A. 2020 Supp. 21-5818, 21-6328 and 21-6604 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 9, 2021.

CHAPTER 41

SENATE BILL No. 65

AN ACT concerning economic development; relating to the high performance incentive fund; workforce training program participation requirements; transferability of tax credits; amending K.S.A. 74-50,133 and 79-32,160a and repealing the existing sections.

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

Section 1. K.S.A. 74-50,133 is hereby amended to read as follows: 74-50,133. There is hereby created within the department of commerce the "high performance incentive fund" to provide matching funds for business assistance and consulting services to qualified firms under the provisions of K.S.A. 74-50,131, and amendments thereto, *or* that are entitled to a workforce training tax credit under the provisions of K.S.A. 74-50,132, and amendments thereto, ~~or have received written approval for and are participating, at the time the funds are sought, in the Kansas industrial training, Kansas industrial retraining or state of Kansas investments in lifelong learning program,~~ subject to appropriation of funds and program criteria, as ~~hereinafter~~ provided *in this section*. The department of commerce may provide funds to qualified firms, on a matching basis, to pay up to 50% of such firm's costs of acquiring consulting services provided by the mid-America manufacturing technology center, or approved private consultants to assist in improving the firm's management, production processes or product or service quality. Qualified firms also shall receive priority consideration for any other business assistance programs administered by the department of commerce.

Sec. 2. K.S.A. 79-32,160a is hereby amended to read as follows: 79-32,160a. (a) For taxable years commencing after December 31, 1999, and before January 1, 2012, any taxpayer who shall invest in a qualified business facility, as defined in ~~subsection (b) of~~ K.S.A. 79-32,154*(b)*, and amendments thereto, and effective for tax years commencing after December 31, 2010, and before January 1, 2012, located in an area other than a metropolitan county as defined in either K.S.A. ~~,~~ 74-50,114 or 74-50,211, and amendments thereto, and also meets the definition of a business in ~~subsection (b) of~~ K.S.A. 74-50,114*(b)*, and amendments thereto, shall be allowed a credit for such investment, in an amount determined under subsection (b) or (c), as the case requires, against the tax imposed by the Kansas income tax act or where the qualified business facility is the principal place from which the trade or business of the taxpayer is directed or managed and the facility has facilitated the creation of at least 20 new full-time positions, against the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or as measured by the net income of financial institutions imposed pursuant

to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for the taxable year during which commencement of commercial operations, as defined in ~~subsection (f) of~~ K.S.A. 79-32,154*(f)*, and amendments thereto, occurs at such qualified business facility. In the case of a taxpayer who meets the definition of a manufacturing business in ~~subsection (d) of~~ K.S.A. 74-50,114*(d)*, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under ~~subsection (d) of~~ K.S.A. 79-32,154*(d)*, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two. In the case of a taxpayer who meets the definition of a nonmanufacturing business in ~~subsection (f) of~~ K.S.A. 74-50,114*(f)*, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under ~~subsection (d) of~~ K.S.A. 79-32,154*(d)*, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds five. Where an employee performs services for the taxpayer outside the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if: (1) The employee's service performed outside the qualified business facility is incidental to the employee's service inside the qualified business facility; or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility ~~which~~ *that* is located in a designated nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

(1) ~~Two thousand five hundred dollars~~*$2,500* for each qualified business facility employee determined under K.S.A. 79-32,154, and amendments thereto; plus

(2) ~~one thousand dollars~~*$1,000* for each $100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment, as determined under K.S.A. 79-32,154, and amendments thereto.

(c) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility~~, which~~ *that* is not located in a nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, and effective for tax years commencing after December 31, 2010, and before January 1, 2012, located in an area other than a metropolitan county as defined in either K.S.A. 74-50,114 or 74-50,211, and amendments thereto, and ~~which~~ *that* also meets the definition of business in ~~subsection (b) of~~ K.S.A. 74-50,114*(b)*, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

(1) ~~One thousand five hundred dollars~~*$1,500* for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto; and

(2) ~~one thousand dollars~~*$1,000* for each $100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(d) The credit allowed by subsection (a) for each qualified business facility employee and for qualified business facility investment shall be a one-time credit. If the amount of the credit allowed under subsection (a) exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for the taxable year, or in the case where the qualified business facility investment was made prior to January 1, 1996, 50% of such tax imposed upon the amount which exceeds such tax liability or such portion thereof may be carried over for credit in the same manner in the succeeding taxable years until the total amount of such credit is used. Except that, before the credit is allowed, a taxpayer, who meets the defini-

tion of a manufacturing business in ~~subsection (d) of~~ K.S.A. 74-50,114*(d)*, and amendments thereto, shall recertify annually that the net increase of a minimum of two qualified business facility employees has continued to be maintained and a taxpayer, who meets the definition of a nonmanufacturing business in ~~subsection (f) of~~ K.S.A. 74-50,114*(f)*, and amendments thereto, shall recertify annually that the net increase of a minimum of five qualified business employees has continued to be maintained.

(e) Notwithstanding the foregoing provisions of this section, and except as otherwise provided in this subsection, any taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto~~; which~~, *that* prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce~~; and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132, and amendments thereto~~, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment ~~which~~ *that* exceeds $50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without regard to the number of qualified business facility employees engaged or maintained in employment at the qualified business facility. For tax years beginning on or after January 1, 2012, for a qualified business facility investment in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte ~~counties~~ *county*, such credit shall be in an amount equal to 10% of that portion of the qualified business facility investment ~~which~~ *that* exceeds $1,000,000. Any taxpayer who has filed a certificate of intent to invest in a qualified business facility pursuant to this subsection in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county prior to December 31, 2011, and commences investments in a qualified business facility prior to December 31, 2013, may claim credits under K.S.A. 74-50,131, 74-50,132 and ~~subsection (e) of~~ 79-32,160a*(e)*, and amendments thereto, in an amount equal to 10% of that portion of the qualified business facility investment ~~which~~ *that* exceeds $50,000. Timing modifications may be authorized at the discretion of the secretary of commerce and the secretary of revenue during the transition period. The credit allowed by this subsection shall be a one-time credit. If the amount thereof exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Anno-

tated, and amendments thereto, for the taxable year, the amount thereof ~~which~~ *that* exceeds such tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such tax credit shall be carried forward for deduction after the 16th taxable year succeeding the taxable year in which such credit initially was claimed, and no carryforward shall be allowed for deduction in any succeeding taxable year unless the taxpayer certifies under oath that the taxpayer continues to meet the requirements of K.S.A. 74-50,131, and amendments thereto, and this act. In no event shall any credit allowed under this section that expired during any taxable year prior to the taxable year commencing January 1, 2011, be revived under the provisions of this act.

(f) *For projects placed into service on and after January 1, 2021, a taxpayer may transfer up to 50% of the tax credit allowed under subsection (e), as provided in this subsection. The taxpayer may make a transfer to one or more transferees, but the total of all transfers shall not exceed 50% of the taxpayer's tax credit. The taxpayer shall make the transfer or transfers within a single tax year. The credit may be transferred to any individual or entity and shall be claimed in the year the credit was transferred against the transferee's tax liability for the income tax under the Kansas income tax act or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. The amount of the credit that exceeds the transferee's tax liability for such year may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such credit shall be carried forward for deduction after the 16th taxable year succeeding the taxable year in which such credit was initially claimed. The taxpayer or transferee shall provide such documentation of the tax credit transfer to the secretary of revenue as may be required by the secretary.*

(g) In the event the tax credit earned by the taxpayer and transferred to a transferee is later disallowed in whole or in part by the secretary of revenue, the taxpayer that originally earned the tax credit shall be liable for repayment to the state in the amount disallowed.

(h) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 79-32,243, and amendments thereto.

~~(g)~~*(i)* This section and K.S.A. 79-32,160b, and amendments thereto, shall be *a* part of and supplemental to the job expansion and investment credit act of 1976, and amendments thereto.

Sec. 3. K.S.A. 74-50,133 and 79-32,160a are hereby repealed.

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

Approved April 15, 2021.

CHAPTER 42

SENATE BILL No. 66

AN ACT concerning income taxation; relating to the Kansas angel investor tax credit act; qualified securities; tax credit limitations and amounts; investor requirements; qualified Kansas business designation requirements; bioscience businesses; program expiration date; expenditures to make principal dwelling accessible to persons with a disability; amending K.S.A. 74-8132, 74-8133, 74-8136 and 79-32,176a and repealing the existing sections.

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

Section 1. K.S.A. 74-8132 is hereby amended to read as follows: 74-8132. As used in this act:

(a) "Angel investor" and "investor" mean an accredited investor who is a natural person or an owner of a permitted entity investor, who is of high net worth, as defined in 17 C.F.R. § 230.501(a), as in effect on ~~the effective date of this act~~ *July 1, 2004*, and who seeks high returns through private investments in start-up companies and may seek active involvement in business, such as consulting and mentoring the entrepreneur. For the purposes of this act, a person who serves as an executive, officer, employee, vendor or independent contractor of the business in which an otherwise qualified cash investment is made is not an "angel investor" and such person shall not qualify for the issuance of tax credits for such investment;

(b) "bioscience business" means ~~what is reflected~~ *a business engaged in bioscience as defined* in K.S.A. 74-99b83, and amendments thereto;

(c) "cash investment" means money or money equivalent in consideration for qualified securities;

(d) "department" means the department of commerce;

(e) "Kansas business" means any business owned by an individual, any partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that does business primarily in Kansas or does substantially all of such businesses' production in Kansas;

(f) "owner" means any natural person who is, directly or indirectly, a partner, stockholder or member in a permitted entity investor;

(g) "permitted entity investor" means*:* (A) Any general partnership, limited partnership, corporation that has in effect a valid election to be taxed as an S corporation under the United States internal revenue code, or a limited liability company that has elected to be taxed as a partnership under the United States internal revenue code*;* and (B) that was established and is operated for the sole purpose of making investments in other entities;

(h) "qualified Kansas business" means the Kansas businesses that are approved and certified as qualified Kansas businesses as provided in K.S.A. 74-8134, and amendments thereto;

(i) "qualified securities" means a cash investment through any ~~one or more forms~~ *form or combination* of *forms of* financial assistance as provided in this subsection that have been approved in form and substance by the secretary. Such forms of financial assistance are: (1) Any form of equity, such as: (A) A general or limited~~,~~ partnership interest; (B) common stock; *or* (C) preferred stock~~, with or~~ without *regard to* voting rights~~, without regard to~~ *or* seniority position, and whether or not convertible into common stock; ~~or (D) any form of subordinate or convertible debt, or both, with warrants or other means of equity conversion attached;~~ or

(2) ~~a~~*any* debt instrument~~, such as a note or debenture that is secured or unsecured, subordinated~~ *subordinate* to the general creditors of the *qualified Kansas business* debtor ~~and~~ *that* requires no ~~payments of principal, other than principal payments required to be made out of any future profits of~~ *payment from* the *qualified Kansas business* debtor, ~~for at least a seven-year period after commencement of such debt instrument's term~~ *and that shall convert to some form of equity prior to the qualified Kansas business debtor raising any additional funds*; and

(j) "secretary" means the secretary of commerce.

Sec. 2. K.S.A. 74-8133 is hereby amended to read as follows: 74-8133. (a) A credit against the tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, on the Kansas taxable income of an angel investor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash investment in the qualified securities of a qualified Kansas business. *For tax year 2021 and all tax years thereafter,* the credit shall be in a total amount ~~equal~~ *of up* to 50% of such investors' cash investment in any qualified Kansas business, subject to the limitations set forth in subsection (b). This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to January 1, 2005. If the amount by which that portion of the credit allowed by this section exceeds the investors' liability in any one taxable year, beginning in the year 2005, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor is a permitted entity investor, the credit provided by this section shall be claimed by the owners of the permitted entity investor in proportion to their ownership share of the permitted entity investor.

(b) *For tax year 2021 and all tax years thereafter,* the secretary of revenue shall not allow tax credits of more than ~~$50,000~~ *$100,000* for a single Kansas business or a total of ~~$250,000~~ *$350,000* in tax credits for a single year per investor who is a natural person or owner of a permitted entity investor. No tax credits authorized by this act shall be allowed for any cash investments in qualified securities for any year after the year ~~2021~~ *2026*.

The total amount of tax credits ~~which~~ *that* may be allowed under this section shall not exceed*:*

(1) $4,000,000 during the tax year 2007 ~~and~~*;*

(2) $6,000,000 for tax ~~year~~ *years* 2008 ~~and each tax year thereafter~~ *through 2010 and 2012 through 2022*, except that for tax year 2011, the total amount of tax credits ~~which~~ *that* may be allowed under this section shall not exceed $5,000,000*;*

(3) $6,500,000 for tax year 2023;

(4) $7,000,000 for tax year 2024;

(5) $7,500,000 for tax year 2025; and

(6) $8,000,000 for tax year 2026.

The balance of unissued tax credits may be carried over for issuance in future years until ~~2021~~ *tax year 2026*.

(c) A cash investment in a qualified security shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined in accordance with the provisions of the internal revenue code.

(d) ~~No investor shall claim a credit under this section for cash investments in Kansas venture capital, inc. No Kansas venture capital company shall qualify for the tax credit for an investment in a fund created by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto.~~

~~(e)~~ Any investor ~~who has not owed any Kansas income tax under the provisions of article 32, chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for the immediate past three taxable years~~ *without a current tax liability at the time of the investment in a qualified Kansas business*, who does not reasonably believe that it will owe any such tax for the current taxable year and who makes a cash investment in a qualified security of a qualified Kansas business shall be deemed to acquire an interest in the nature of a transferable credit limited*, for tax year 2021 and all tax years thereafter,* to an amount ~~equal~~ *up* to 50% of this cash investment. This interest may be transferred to any natural person ~~of net worth, as defined in 17 C.F.R. § 230.501(a), as in effect on the effective date of this act,~~ whether or not such person is then an investor and be claimed by the transferee as a credit against the transferee's Kansas income tax liability beginning in the year provided in subsection (a). No person shall be entitled to a refund for the interest created under this section. Only the full credit for any one investment may be transferred and this interest may only be transferred one time. A credit acquired by transfer shall be subject to the limitations prescribed in this section. Documentation of any credit acquired by transfer shall be provided by the investor in the manner required by the director of taxation.

~~(f)~~*(e)* The reasonable costs of the administration of this act, the review of applications for certification as qualified Kansas businesses and the is-

suance of tax credits authorized by this act shall be reimbursed through fees paid by the qualified Kansas businesses and the investors or the transferees of investors, according to a reasonable fee schedule adopted by the secretary by rules and regulations in accordance with the rules and regulations filing act.

Sec. 3. K.S.A. 74-8136 is hereby amended to read as follows: 74-8136. (a) Tax credits for qualified Kansas businesses are a limited resource of the state for which the secretary is designated as the administrator. The purpose of such tax credits is to facilitate the availability of equity investment in businesses in the early stages of commercial development and to assist in the creation and expansion of Kansas businesses ~~which~~ *that* are job and wealth creating enterprises. To achieve this purpose and to optimize the use of the limited resources of the state, the secretary is authorized to issue tax credits to qualified investors in qualified Kansas businesses. Such tax credits shall be awarded to those qualified Kansas businesses ~~which~~ *that*, as determined by the secretary, are most likely to provide the greatest economic benefit to the state. The secretary may issue whole or partial tax credits based on an assessment of the qualified businesses. The secretary may consider numerous factors in such assessment, including, but not limited to, the quality and experience of the management team, the size of the estimated market opportunity, the risk from current or future competition, the ability to defend intellectual property, the quality and utility of the business model and the quality and reasonableness of financial projections for the business.

(b) Each qualified Kansas business for which tax credits have been issued pursuant to this act shall report to the department on an annual basis, the following: (1) The name, address and taxpayer identification number of each angel investor who has made cash investment in the qualified securities of a qualified Kansas business and has received tax credits for this investment during the preceding year and all other preceding years; (2) the amounts of these cash investments by each angel investor and a description of the qualified securities issued in consideration of such cash investments; (3) the name, address and taxpayer identification number of each investor to which tax credits issued pursuant to this act have been transferred by the original angel investor; and (4) any additional information as the secretary may require pursuant to this act.

(c) The secretary shall transmit annually to the governor, the standing committee on commerce of the senate and the standing committee on commerce, labor and economic development of the house of representatives a report, based upon information received from each qualified Kansas business for which tax credits have been issued during the preceding year, describing the following: (1) The manner in which the purpose, as described in this act, has been carried out; (2) the total cash investments

made for the purchase of qualified securities of qualified Kansas businesses during the preceding year and cumulatively since the inception of this act; (3) an estimate of jobs created and jobs preserved by cash investments made in qualified securities of qualified Kansas businesses; and (4) an estimate of the multiplier effect on the Kansas economy of the cash investments made pursuant to this act.

(d) The secretary shall provide the information specified in subsection (c) to the department of revenue on an annual basis. The secretary shall conduct an annual review of the activities undertaken pursuant to this act to ensure that tax credits issued pursuant to this act are issued in compliance with the provisions of this act or rules and regulations promulgated by the department with respect to this act.

(e) Any violation of the reporting requirements set forth in this section shall be grounds for undesignation of a qualified Kansas business under this section.

(f) If the secretary determines that a business is not in substantial compliance with the requirements of this act to maintain its designation, the secretary, by written notice, shall inform the officers of the qualified Kansas business and the business that such business will lose designation as a qualified Kansas business in 120 days from the date of mailing of the notice unless such business corrects the deficiencies and is once again in compliance with the requirements for designation.

(g) At the end of the 120-day period, if the qualified Kansas business is still not in substantial compliance, the secretary shall send a notice of loss of designation to the business, the secretary of the department of revenue and to all known investors in the business. Loss of designation of a qualified Kansas business shall preclude the issuance of any additional tax credits with respect to this business and the secretary shall not approve the application of such business as a qualified Kansas business. Upon loss of the designation as a qualified Kansas business or if a *bioscience* business loses its designation as a qualified Kansas business under this act by moving its operations outside Kansas within 10 years after receiving financial assistance under this act *or a qualified Kansas business that is not a bioscience business loses its designation as a qualified Kansas business under this act by moving its operations outside Kansas within five years after receiving financial assistance under this act*, such business shall repay such financial assistance to the department, in an amount determined by the secretary. Each qualified Kansas business that loses such designation shall enter into a repayment agreement with the secretary specifying the terms of such repayment obligation.

(h) Angel investors *who lawfully make an investment* in a qualified Kansas business shall ~~be entitled to keep all of the tax credits claimed~~ *not have tax credits disallowed solely due to the business losing its designation as a qualified Kansas business* under this act.

(i) The secretary shall adopt rules and regulations in accordance with the rules and regulations filing act necessary to implement the provisions of K.S.A. 74-8131 through 74-8136, and amendments thereto.

Sec. 4. K.S.A. 79-32,176a is hereby amended to read as follows: 79-32,176a. (a) Any resident individual taxpayer who makes expenditures for the purpose of making all or any portion of an existing facility accessible to individuals with a disability, which facility is used as, or in connection with, such taxpayer's principal dwelling or the principal dwelling of a lineal ascendant or descendant, including construction of a small barrier-free living unit attached to such principal dwelling, shall be entitled to claim a tax credit in an amount equal to the applicable percentage of such expenditures or ~~$9,000~~ *$15,000*, whichever is less, against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be deemed to prevent any such taxpayer from claiming such credit: (1) For each principal dwelling in which the taxpayer or lineal ascendant or descendant may reside, or facility used in connection therewith; or (2) more than once, but not more often than once every four-year period of time. The applicable percentage of such expenditures eligible for credit shall be as set forth in the following ~~schedule~~ *schedules*:

Married individuals filing joint returns.

Taxpayers Federal Adjusted Gross Income	% of expenditures eligible for credit
$0 to ~~$25,000~~ *$60,000*	100%
Over ~~$25,000~~ *$60,000* but not over ~~$30,000~~ *$70,000*	90%
Over ~~$30,000~~ *$70,000* but not over ~~$35,000~~ *$80,000*	80%
Over ~~$35,000~~ *$80,000* but not over ~~$40,000~~ *$90,000*	70%
Over ~~$40,000~~ *$90,000* but not over ~~$45,000~~ *$100,000*	60%
Over ~~$45,000~~ *$100,000* but not over ~~$55,000~~ *$110,000*	50%
Over ~~$55,000~~ *$110,000 but not over $120,000*	~~0~~ *40%*
Over $120,000 but not over $130,000	*30%*
Over $130,000 but not over $140,000	*20%*
Over $140,000 but not over $150,000	*10%*
Over $150,000	*0%*

All other individuals.

Taxpayers Federal Adjusted Gross Income	*% of expenditures eligible for credit*
$0 to $40,000	*100%*
Over $40,000 but not over $50,000	*90%*

Over $50,000 but not over $60,000 ..... 80%
Over $60,000 but not over $70,000 ..... 70%
Over $70,000 but not over $80,000 ..... 60%
Over $80,000 but not over $90,000 ..... 50%
Over $90,000 but not over $100,000 ..... 40%
Over $100,000 but not over $110,000 ..... 30%
Over $110,000 but not over $120,000 ..... 20%
Over $120,000 but not over $130,000 ..... 10%
Over $130,000 ..... 0%

Such tax credit shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.

(b) Notwithstanding the provisions of subsection (a), if the amount of the taxpayer's tax liability is less than ~~$2,250~~ *$3,750* in the first year in which the credit is claimed under this section, an amount equal to the amount by which ¼ of the credit allowable under this section exceeds such tax liability shall be refunded to the taxpayer and the amount by which such credit exceeds such tax liability less the amount of such refund may be carried over for the next three succeeding taxable years. If the amount of the taxpayer's tax liability is less than ~~$2,250~~ *$3,750* in the second year in which the credit is claimed under this section, an amount equal to the amount by which ⅓ of the amount of the credit carried over from the first taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the first taxable year exceeds such tax liability less the amount of such refund may be carried over for the next two succeeding taxable years. If the amount of the taxpayer's tax liability is less than ~~$2,250~~ *$3,750* in the third year in which the credit is claimed under this section, an amount equal to the amount by which ½ of the amount carried over from the second taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the second taxable year exceeds such tax liability less the amount of such refund may be carried over to the next succeeding taxable year. If the amount of the credit carried over from the third taxable year exceeds the taxpayer's income tax liability for such year, the amount thereof which exceeds such tax liability shall be refunded to the taxpayer.

(c) *In the case of all tax years commencing after December 31, 2021, the maximum tax credit amount, as prescribed in subsection (a), and the tax liability threshold amount in the first, second and third years, as prescribed in subsection (b), shall be increased by an amount equal to such maximum tax credit amount and tax liability threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.*

(d) The provisions of this section are applicable to tax year ~~2013~~ *2021*, and all tax years thereafter.

Sec. 5. K.S.A. 74-8132, 74-8133, 74-8136 and 79-32,176a are hereby repealed.

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

Approved April 15, 2021.

CHAPTER 43

SENATE BILL No. 90

AN ACT concerning the Kansas rural housing incentive district act; amending the definition of "city"; permitting the use of bond proceeds for vertical renovations of certain buildings for residential purposes; amending K.S.A. 12-5249 and K.S.A. 2020 Supp. 12-5242 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 12-5242 is hereby amended to read as follows: 12-5242. Except as otherwise provided, as used in K.S.A. 12-5241 through 12-5251 and K.S.A. 2020 Supp. 12-5252 through 12-5258, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

(a) "City" means any city incorporated in accordance with Kansas law with a population of less than 60,000 ~~in a county with a population of less than 80,000~~, as certified to the secretary of state by the director of the division of the budget on the previous July 1 in accordance with K.S.A. 11-201, and amendments thereto.

(b) "City housing authority" means any agency of a city created pursuant to the municipal housing law, K.S.A. 17-2337 et seq., and amendments thereto.

(c) "Corporation" means the Kansas housing resources corporation.

(d) "County" means any county organized in accordance with K.S.A. 18-101 et seq., and amendments thereto, with a population of less than ~~60,000~~ *80,000*, as certified to the secretary of state by the director of the division of the budget on the previous July 1st in accordance with K.S.A. 11-201, and amendments thereto.

(e) "Developer" means the person, firm or corporation responsible under an agreement with the governing body to develop housing or related public facilities in a district.

(f) "District" means a rural housing incentive district established in accordance with this act.

(g) "Governing body" means the board of county commissioners of any county or the mayor and council, mayor and commissioners or board of commissioners, as the laws affecting the organization and status of cities affected may provide.

(h) "Housing development activities" means the construction or rehabilitation of infrastructure necessary to support construction of new residential dwellings and the actual construction of such residential dwellings, if such construction is conducted by a city housing authority.

(i) "Secretary" means the secretary of commerce of the state of Kansas.

(j) "Real property taxes" means and includes all taxes levied on an ad valorem basis upon land and improvements thereon.

(k) "Taxing subdivision" means 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 rural housing incentive district.

Sec. 2. K.S.A. 12-5249 is hereby amended to read as follows: 12-5249. (a) Any city or county which has established a rural housing incentive district may use the proceeds of special obligation bonds issued under K.S.A. 12-5248, and amendments thereto, or any uncommitted funds derived from those sources of revenue set forth in ~~paragraph (1) of subsection (a) of~~ K.S.A. 12-5248*(a)(1), and amendments thereto*, to implement specific projects identified within the rural housing incentive district plan including, without limitation:

(1) Acquisition of property within the specific project area or areas as provided in K.S.A. 12-5247*, and amendments thereto*;

(2) payment of relocation assistance;

(3) site preparation;

(4) sanitary and storm sewers and lift stations;

(5) drainage conduits, channels and levees;

(6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;

(7) street lighting fixtures, connection and facilities;

(8) underground gas, water, heating, and electrical services and connections located within the public right-of-way;

(9) sidewalks;~~ and~~

(10) water mains and extensions*; and*

(11) renovation of buildings or other structures more than 25 years of age primarily for residential use located in a central business district as approved by the secretary of commerce. Certification of the age of the building or other structure shall be submitted to the secretary by the governing body of the city or county with the resolution as provided by K.S.A. 12-5244, and amendments thereto. Eligible residential improvements shall include only improvements made to the second or higher floors of a building or other structure. Improvements for commercial purposes shall not be eligible.

(b) None of the proceeds from the sale of special obligation bonds issued under K.S.A. 12-5248*, and amendments thereto,* shall be used for the construction of buildings or other structures to be owned by or to be leased to any developer of a residential housing project within the district*, except for buildings or other structures located in a central business district as approved by the secretary of commerce*.

Sec. 3. K.S.A. 12-5249 and K.S.A. 2020 Supp. 12-5242 are hereby repealed.

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

Approved April 15, 2021.

CHAPTER 44

HOUSE BILL No. 2178

AN ACT concerning cities; relating to the vacation of territory, easements or certain blocks; providing procedures to challenge certain decisions of a city; amending K.S.A. 12-504 and 12-505 and repealing the existing sections.

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

New Section 1. Lots dedicated in the northeast section of the original town plat for the city of Americus, Kansas, for a college and for a park are hereby vacated from such dedication, and fee simple title to such lots are vested in the city of Americus, Kansas, to dispose of at the discretion of the city's governing body.

New Sec. 2. Any owner of land aggrieved by the decision of the city governing body under the provisions of K.S.A. 12-505, 13-443, 14-423 and 15-427, and amendments thereto, within 30 days following the publication of the vacation ordinance, may bring an action in district court challenging the reasonableness of such decision.

Sec. 3. K.S.A. 12-504 is hereby amended to read as follows: 12-504. ~~Whenever the governing body of the city in which any of the following are located or whenever~~ *(a)* The owner~~or owners~~ of*: (1)* Any townsite or part of a townsite~~, or of~~*; (2)* any addition or part of an addition to any city~~,~~*;* or ~~the governing body in which the following are located, or the owner or owners of~~ *(3)* the lands adjoining on both sides of any street, alley or public reservation such as, but not limited to public easements, dedicated building setback lines, access control, or a part thereof, in any city~~or any addition thereto,~~ *that* desires to have ~~the same~~ *any townsite or part thereof, any addition or part thereof, or public easements, building setback lines, access control or part thereof* vacated, or *that* desires to exclude any farming lands or unplatted tracts, or any addition or part of an addition ~~to be vacated hereunder,~~ from the boundaries of the city ~~wherein situated~~, *shall petition* the governing body of such city ~~or the city planning commission shall~~ *and request a public hearing on the issues. The governing body shall* give ~~public~~ notice ~~of the same~~ *of such request* by ~~a~~ publication ~~in a newspaper of general circulation in the vicinity of such place sought to be vacated or excluded or~~ in the official city newspaper ~~in which is situated the place, tract or tracts, street, alley, or public reservation sought to be vacated or excluded, if there is any such newspaper published therein~~ *and shall designate whether the hearing will be conducted by the governing body or the planning commission*. ~~Such~~ *The* notice shall be published at least one time at least 20 days prior to ~~the date of~~ the hearing. ~~Such~~ *The* notice shall state that a petition has been filed in the office of the city clerk ~~praying for~~ *requesting* such vacation or exclusion, or both, describing the

property fully~~, and that on a certain date after the completion of such publication notice, naming the day on which the petition will be presented to the governing body of the city or the city planning commission for a hearing thereon, and that at such time and place~~. *The notice shall specify whether the hearing is to be held before the governing body or the planning commission.* All *interested* persons ~~interested can appear and~~ *shall be given an opportunity to* be heard ~~under~~ *on* the petition.

(b) Any city may initiate the deannexation of land from the city by following the notice and public hearing process established in subsection (a). The hearing shall be held before the city governing body.

(c) A city may initiate the vacation of any public reservation by following the notice and public hearing process established in subsection (a). The hearing shall be held before the city governing body.

Sec. 4. K.S.A. 12-505 is hereby amended to read as follows: 12-505. (a) *(1)* Upon the presentation of ~~such~~ *the* petition~~, as hereinbefore provided for,~~ to the governing body of the city or planning commission, the governing body or planning commission shall proceed to hear the ~~same~~ *petition*~~, or may adjourn the hearing from time to time to some day and hour certain, as deemed necessary, and which adjournment shall be noted upon the record of the proceedings thereof~~ *as provided in the notice*. On the day of the hearing ~~of such petition~~, the governing body or planning commission shall hear ~~such~~ testimony ~~as may be produced before it, and such other testimony as required in order to fully understand the true nature of the petition and~~ *on* the propriety of granting the ~~same~~ *petition*. If the planning commission holds the hearing, the commission shall make a recommendation regarding the vacation and submit such recommendation to the governing body in the same manner provided by K.S.A. 12-752, and amendments thereto, for the submission and approval of recommendations regarding plats. ~~Subject to the provisions of subsection (b),~~

(2) If the governing body or planning commission determines from the proofs and evidence presented that ~~due and~~ legal notice has been given by publication as required ~~in this act, and~~, that no private rights will be injured or endangered by such vacation or exclusion, ~~and~~ that the public will suffer no loss or inconvenience thereby~~,~~ and that in justice to the petitioner or petitioners the ~~prayer~~ *request* of the petitioner ought to be granted, the governing body shall *enact an ordinance containing the* order that such vacation or exclusion, or both, be made. Any order approving a vacation of plat, street, alleys, easements or a public reservation shall provide for the reservation to the city and the owners of any lesser property rights for public utilities, rights-of-ways and easements for public service facilities originally held in such plat, street, alley, easement or public reservation then in existence and use.

(3) The petition shall not be granted if a written objection ~~thereto~~ is filed with the city clerk, at the time of or before the hearing, by any owner or adjoining owner who would be a proper party to the petition but has not joined therein. When only a portion of a street, alley or public reservation is proposed to be vacated, the petition shall not be granted if a written objection is filed with the clerk of the governing body by any owner of lands ~~which~~ *that* adjoin the portion to be vacated.

(b) ~~If within two years following the effective date of the annexation of any tract pursuant to K.S.A. 12-520c, and amendments thereto, and upon petition of the owner of any such tract, the governing body of the city shall exclude such tract if the owner reimburses the city for all costs incurred by the city in the extension of services to such tract, together with interest on the amount of such costs at a rate provided by K.S.A. 16-201, and amendments thereto. The owner shall be required to pay only those costs which are attributable to services which exclusively benefit such tract.~~

~~The provisions of this subsection shall apply only to a tract which is under one ownership on the date the petition for exclusion is filed by the owner thereof with the city governing body, and which will not adjoin the city on the effective date of its exclusion from the city.~~

~~The terms "tract" and "owner" in this subsection shall have the same meaning ascribed thereto in K.S.A. 12-519, and amendments thereto.~~

~~The provisions of this subsection shall expire on December 31, 1997.~~

~~(c)~~ Any lands ~~so~~ excluded *pursuant to this section* shall be listed for future taxation ~~the same~~ as though ~~it~~ *the lands* had never been a part of such city~~, and which order shall be entered at length on the records of the proceedings of the governing body. Thereupon~~ The city clerk shall certify a copy of such *ordinance containing the* order to the register of deeds of the county in which such property is located. The register of deeds shall record in the deed records of the county at the expense of the petitioner or petitioners, and the register of deeds shall also write on the margin of the recorded plat of such townsite or addition, the words "canceled by order" or "canceled in part by order," as the case may be, giving reference thereon to the page and book of records where ~~such~~ *the ordinance containing the* order is recorded in the register's office.

Sec. 5. K.S.A. 12-504 and 12-505 are hereby repealed.

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

Approved April 15, 2021.

CHAPTER 45

HOUSE BILL No. 2238

AN ACT concerning school districts and cities; relating to gifts for libraries; amending K.S.A. 12-1252 and repealing the existing section.

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

Section 1. K.S.A. 12-1252 is hereby amended to read as follows: 12-1252. *(a)* The board of education of any school district, ~~or~~ the governing body of any city, or ~~the board of education of any school district~~ *both* jointly ~~with the governing body of any city in such school district is hereby~~ *are* authorized to receive gifts ~~of not to exceed five hundred thousand dollars ($500,000) upon conditions provided in this act. Such a~~ *The* gift may be conditioned ~~as follows:~~

~~(a)~~ — *so* that the money ~~given~~ will be used only for the purpose of construction and furnishing of a library ~~in a particular city or other place~~.

(b) ~~That~~ The board of education ~~of the school district~~ or the governing body of the city, or both, ~~as the case may be, shall~~ *may* by resolution contract and agree to pay the donor during ~~his or her~~ *the donor's* lifetime interest on the principal sum of ~~such~~ *the* gift at ~~such~~ *the* rate as the donor and the recipient ~~may~~ agree upon. The interest ~~so~~ agreed upon shall be paid by the school district or city, or both, in periodic semiannual payments in the same manner as interest on bonded indebtedness. ~~Such~~ *The* interest may be paid by the school district or city, or both, from bond funds, or from special capital outlay funds, or if there are insufficient amounts in such funds, then from the general operating fund of the school district, or city, or both. The board of education of any school district making an agreement and receiving any gift under this act may make an annual tax levy on the taxable tangible property in the school district in an amount necessary to meet the interest requirements agreed upon in the resolution accepting ~~such~~ *the* gift. Any tax levied under authority of this act shall not be subject to any tax levy limitation ~~not specified in this act~~, and expenditures for interest paid under authority hereof shall not be counted as operating expenses ~~within the meaning of K.S.A. 72-7001 et seq~~. The aggregate amount of ~~such~~ *the* periodic payments, using a standard annuity table, shall not at the time of the gift be estimated to exceed the principal amount of the gift.

(c) ~~Such additional conditions as~~ The donor and *the* board of education or *the* governing body, or both, may agree upon *additional conditions*.

Sec. 2. K.S.A. 12-1252 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 15, 2021.

CHAPTER 46

House Substitute for SENATE BILL No. 124

AN ACT concerning STAR bonds; prohibiting public officials from benefiting from STAR bond projects; relating to the financing of STAR bond projects and rural redevelopment projects; eligible areas; public notice of hearings on city or county website; posting of documents and link to department of commerce database; disclosure of names of developer; major business facility; real estate transfers; plan for tracking the number of visitors; feasibility study requirements; disclosure of state, federal and local tax incentives within STAR bond district; capital investment and annual sales requirements; STAR bond districts; contiguity; project costs; sunset date; amending K.S.A. 2020 Supp. 12-17,162, 12-17,165, 12-17,166, 12-17,169, 12-17,171 and 12-17,179 and repealing the existing sections.

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

New Section 1. (a) No state or local government official shall be employed by a STAR bond project developer or manager.

(b) For the purposes of this section:

(1) "Employed" means direct employment or work as an independent contractor for the project developer or manager.

(2) "State or local government official" means a member of the legislature, an appointed or elected official or officer of any state agency, office, board, commission, authority or institution and an appointed or elected official, officer or member of the government authority of any government subdivision, including any city, county, township, school district, special district, board or commission.

(c) This section shall be a part of and supplemental to the STAR bonds financing act.

Sec. 2. K.S.A. 2020 Supp. 12-17,162 is hereby amended to read as follows: 12-17,162. As used in the STAR ~~bond~~ *bonds* financing act, ~~the following words and phrases shall have the following meanings~~ unless a different meaning clearly appears from the context:

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

(b) "Commence work" means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description ~~which a person with reasonable diligence can see and recognize as being done~~ *according to an approved plan of construction,* with the intention and purpose to continue work until the project is completed.

(c) "De ~~minimus~~ *minimis*" means an amount less than 15% of the land area within a STAR bond project district.

(d) "Developer" means any person, firm, corporation, partnership or limited liability company other than a city and other than an agency, political subdivision or instrumentality of the state. *"Developer" includes the names of the owners, partners, officers or principals of the developer for purposes of inclusion of the name of the developer into any application, document or report pursuant to this act if such application, document or report is a public record.*

(e) "Economic impact study" means a study to project the financial benefit of the project to the local, regional and state economies.

(f) "Eligible area" means a historic theater, major tourism area, major motorsports complex, auto race track facility, river walk canal facility, major multi-sport athletic complex, *major business facility* or a major commercial entertainment and tourism area as determined by the secretary.

(g) "Feasibility study" means a feasibility study as defined in K.S.A. 2020 Supp. 12-17,166(b), and amendments thereto.

(h) "Historic theater" means a building constructed prior to 1940 ~~which~~ *that* was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

(i) "Historic theater sales tax increment" means the amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within the historic theater that is in excess of the amount of such taxes collected prior to the designation of the building as a historic theater for purposes of this act.

(j) *"Major business facility" means a significant business headquarters or office building development designed to draw a substantial number of new visitors to Kansas and that has agreed to provide visitor tracking data to the secretary as requested by the secretary, including, but not limited to, residence zip code information, to be provided or held by the secretary without personally identifiable information. A major business facility shall meet sales tax increment revenue requirements that shall be established by the secretary independent of any associated retail businesses located in the STAR bond project district pursuant to the STAR bond project plan.*

(k) "Major commercial entertainment and tourism area" means an area that may include, but not be limited to, a major multi-sport athletic complex.

~~(k)~~*(l)* "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 oth-

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

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

~~(n)~~*(o)* "Market study" means a study to determine the ability of the project to gain market share locally, regionally and nationally and the ability of the project to gain sufficient market share to:

(1) Remain profitable past the term of repayment; and

(2) maintain status as a significant factor for travel decisions.

~~(o)~~*(p)* "Market impact study" means a study to measure the impact of the proposed project on similar businesses in the project's market area.

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

~~(q)~~*(r)* "Project" means a STAR bond project.

~~(r)~~*(s)* "Project costs" means those costs necessary to implement a STAR bond project plan, including costs incurred for:

(1) Acquisition of real property within the STAR bond project area;

(2) payment of relocation assistance pursuant to a relocation assistance plan as provided in K.S.A. 2020 Supp. 12-17,173, and amendments thereto;

(3) site preparation including utility relocations;

(4) sanitary and storm sewers and lift stations;

(5) drainage conduits, channels, levees and river walk canal facilities;

(6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;

(7) street light fixtures, connection and facilities;

(8) underground gas, water, heating and electrical services and connections located within the public right-of-way;

(9) sidewalks and pedestrian underpasses or overpasses;

(10) drives and driveway approaches located within the public right-of-way;

(11) water mains and extensions;

(12) plazas and arcades;

(13) parking facilities and multilevel parking structures devoted to parking only;

(14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities;

(15) auto race track facility;

(16) major multi-sport athletic complex;

(17) museum facility;

(18) major motorsports complex;

(19) *rural redevelopment project, including costs incurred in connection with the construction or renovation of buildings or other structures;*

(20) related expenses to redevelop and finance the project, except that for a STAR bond project financed with special obligation bonds payable from the revenues described in K.S.A. 2020 Supp. 12-17,169(a)(1), and amendments thereto, such expenses shall require prior approval by the secretary of commerce; and

~~(20)~~*(21)* except as specified in paragraphs (1) through ~~(19)~~ *(20)* above, "project costs ~~shall~~" *does* not include:

(A) Costs incurred in connection with the construction of buildings or other structures;

(B) fees and commissions paid to developers, real estate agents, financial advisors or any other consultants who represent the developers or any other businesses considering locating in or located in a STAR bond project district;

(C) salaries for local government employees;

(D) moving expenses for employees of the businesses locating within the STAR bond project district;

(E) property taxes for businesses that locate in the STAR bond project district;

(F) lobbying costs;

(G) any bond origination fee charged by the city or county;

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

(I) travel, entertainment and hospitality.

~~(s)~~*(t)* "Projected market area" means any area within the state in which the project is projected to have a substantial fiscal or market impact upon businesses in such area.

~~(t)~~*(u)* "River walk canal facilities" means a canal and related water features which flow through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to, pedestrian walkways and promenades, landscaping and parking facilities.

(v) "Rural redevelopment project" means a project that is in an area outside of a metropolitan area with a population of more than 50,000, that is of regional importance, with capital investment of at least $3,000,000 and that will enhance the quality of life in the community and region.

~~(u)~~*(w)* "Sales tax and revenue" are those revenues available to finance the issuance of special obligation bonds as identified in K.S.A. 2020 Supp. 12-17,168, and amendments thereto.

~~(v)~~*(x)* "STAR bond" means a sales tax and revenue bond.

~~(w)~~*(y)* "STAR bond project" means an approved project to implement a project plan for the development of the established STAR bond project district ~~with~~ *that*:

(1) *(A) Has* at least a ~~$50,000,000~~ *$75,000,000* capital investment and ~~$50,000,000~~ *$75,000,000* in projected gross annual sales; or

(B) for metropolitan areas with a population of between 50,000 and 75,000, has at least a $40,000,000 capital investment and $40,000,000 in projected gross annual sales, if the project is deemed of high value by the secretary; or

(2) for areas outside of metropolitan ~~statistical~~ areas~~, as defined by the federal office of management and budget~~ *with a population of more than 50,000*, the secretary finds *the project*:

(A) ~~The project~~ Is an eligible area as defined in subsection (f)~~, and amendments thereto~~; and

(B) would be of regional or statewide importance;~~ or~~

(3) is a major tourism area as defined in subsection ~~(l), and amendments thereto~~ *(m)*;~~ or~~

(4) is a major motorsports complex, as defined in subsection ~~(k)~~ *(l); or*

(5) is a rural redevelopment project as defined in subsection (v).

~~(x)~~*(z)* "STAR bond project area" means the geographic area within the STAR bond project district in which there may be one or more projects.

~~(y)~~*(aa)* "STAR bond project district" means the specific area declared to be an eligible area as determined by the secretary in which the city or county may develop one or more STAR bond projects. A "STAR bond project district" includes a redevelopment district, as defined in K.S.A.

12-1770a, and amendments thereto, created prior to the effective date of this act for the Wichita Waterwalk project in Wichita, Kansas, provided, the city creating such redevelopment district submits an application for approval for STAR bond financing to the secretary on or before July 31, 2007, and receives a final letter of determination from the secretary approving or disapproving the request for STAR bond financing on or before November 1, 2007. No STAR bond project district shall include real property which has been part of another STAR bond project district unless such STAR bond project and STAR bond project district have been approved by the secretary of commerce pursuant to K.S.A. 2020 Supp. 12-17,164 and 12-17,165, and amendments thereto, prior to March 1, 2016. A STAR bond project district *in a metropolitan area with a population of more than 50,000,* shall be *a contiguous parcel of real estate and shall be* limited to those areas being developed by the STAR bond project and any area of real property reasonably anticipated to directly benefit from the redevelopment project.

~~(z)~~*(bb)* "STAR bond project district plan" means the preliminary plan that identifies all of the proposed STAR bond project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each STAR bond project area.

~~(aa)~~*(cc)* "STAR bond project plan" means the plan adopted by a city or county for the development of a STAR bond project or projects in a STAR bond project district.

~~(bb)~~*(dd)* "Secretary" means the secretary of commerce.

~~(cc)~~*(ee)* "Substantial change" means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the STAR bond project district plan was approved.

~~(dd)~~*(ff)* "Tax increment" means that portion of the revenue derived from state and local sales, use and transient guest tax imposed pursuant to K.S.A. 12-187 et seq., 12-1692 et seq., 79-3601 et seq. and 79-3701 et seq., and amendments thereto, collected from taxpayers doing business within that portion of a STAR bond project district occupied by a project that is in excess of the amount of base year revenue. For purposes of this subsection, the base year shall be the 12-month period immediately prior to the month in which the STAR bond project district is established. The department of revenue shall determine base year revenue by reference to the revenue collected during the base year from taxpayers doing business within the specific area in which a STAR bond project district is subsequently established. The base year of a STAR bond project district, following the addition of area to the STAR bond project district, shall be the base year for the original area, and with respect to the additional area, the base year shall be any 12-month period immediately prior to the month in which additional area

is added to the STAR bond project district. For purposes of this subsection, revenue collected from taxpayers doing business within a STAR bond project district, or within a specific area in which a STAR bond project district is subsequently established shall not include local sales and use tax revenue that is sourced to jurisdictions other than those in which the project is located. The secretary of revenue and the secretary of commerce shall certify the appropriate amount of base year revenue for taxpayers relocating from within the state into a STAR bond district.

~~(ee)~~*(gg)* "Taxpayer" means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto.

Sec. 3. K.S.A. 2020 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;

(5) provide a description of all state, federal and local tax incentives that apply or, pursuant to the STAR bond project district plan, are anticipated to apply within the STAR bond district or that apply to any business located in or, as provided in the public STAR bond project district plan or in any other public document, that will locate in the district; and

~~(5)~~*(6)* 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 K.S.A. 2020 Supp. 12-17,166(f)(2), and amendments thereto*, and, if the county or city has a website, notice shall be conspicuously provided at a prominent location on the first page of the website of the county or city. Such notice shall include the items described in subsections (a)(2), (a)(3), (a)(4) and (a)(5) and any other document or information required to be set forth in the resolution or a link to such items*.

(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. 2020 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. *The ordinance or resolution, including the STAR bond project district plan, the legal description of the STAR bond project district and any other public documents considered at the public hearing, shall be conspicuously posted or linked to a prominent location on the first page of the city or county's website, if the city or county has a website.*

(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. 2020 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);

(C) provide a description of all state, federal and local tax incentives that apply or, pursuant to the STAR bond project district plan, are anticipated to apply within the STAR bond district or that apply to any business located in or, as provided in the public STAR bond project district plan or in any other public document, that will locate in the district; and

~~(C)~~*(D)* 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. 2020 Supp. 12-17,160 et seq., and amendments thereto, if the board of county com-

missioners 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. 2020 Supp. 12-17,171, and amendments thereto.

Sec. 4. K.S.A. 2020 Supp. 12-17,166 is hereby amended to read as follows: 12-17,166. (a) One or more projects may be undertaken by a city or county within an established STAR bond project district *upon submission of the project plan to the secretary of commerce and approval by the secretary as provided by K.S.A. 2020 Supp. 12-17,164, and amendments thereto*. Any city or county proposing to undertake a STAR bond project, shall prepare a STAR bond project plan in consultation with the planning commission of the city, and in consultation with the planning commission of the county, if any, if such project is located wholly outside the boundaries of the city. Any such project plan may be implemented in separate development stages.

(b) Any city or county proposing to undertake a STAR bond project within a STAR bond project district established pursuant to K.S.A. 2020 Supp. 12-17,165, and amendments thereto, shall prepare a feasibility study *to be conducted by one or more consultants selected and approved by the secretary, and the costs shall be paid by the developer or the city or county. The secretary shall have control and oversight authority over the scope, conduct and methodology of the study. The secretary may establish a list of preapproved consultants and approved study parameters and methods*. The feasibility study shall contain the following:

(1) Whether a STAR bond project's revenue and tax increment revenue and other available revenues under K.S.A. 2020 Supp. 12-17,169, and amendments thereto, are expected to exceed or be sufficient to pay for the project costs;

(2) the effect, if any, a STAR bond project will have on any outstanding special obligation bonds payable from the revenues described in K.S.A. 2020 Supp. 12-17,169, and amendments thereto;

(3) a statement of how the jobs and taxes obtained from the STAR bond project will contribute significantly to the economic development of the state and region;

(4) visitation expectations *and a plan describing how the number of visitors to the STAR bond project district will be tracked and reported to the secretary on an annual basis. Such plan shall include, but not be limited to, obtaining and reporting visitor residence zip code data to the secretary. All businesses located in the STAR bond district shall provide visitor residence data requested by the secretary. Any such data shall be provided in an aggregate manner without personally identifiable information*;

(5) the unique quality of the project;

(6) economic impact study, *including the anticipated effect of the project on the regional and statewide economies*;

(7) market study;

(8) market impact study;

(9) integration and collaboration with other resources or businesses;

(10) the quality of service and experience provided, as measured against national consumer standards for the specific target market;

(11) project accountability, measured according to best industry practices;

(12) the expected return on state and local investment that the project is anticipated to produce;

(13) *a net return on investment analysis;*

(14) 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 STAR bond project. If a portion of local sales and use taxes is so committed, the applicant shall describe the following:

(A) The percentage of city and county sales and use taxes collected that are so committed; and

(B) the date or dates on which the city and county sales and use taxes pledged to other uses can be pledged for repayment of bonds;~~ and~~

~~(14)~~*(15)* an anticipated principal and interest payment schedule on the bond issue*;*

(16) a summary of community involvement, participation and support for the STAR bond project; and

(17) a full disclosure and description of all state, federal and local tax incentives that apply or, pursuant to the project plan, are anticipated to apply within the STAR bond district or that apply to any business located in or, pursuant to the project plan, that will locate in the district.

The failure to include all information enumerated in this subsection in the feasibility study for a STAR bond project shall not affect the validity of bonds issued pursuant to this act.

(c) If the city or county determines the project is feasible, the project plan shall include:

(1) A summary of the feasibility study done as defined in subsection (b)~~ of this section, and amendments thereto~~;

(2) a reference to the district plan established under K.S.A. 2020 Supp. 12-17,165, and amendments thereto, that identifies the project area that is set forth in the project plan that is being considered;

(3) a description and map of the project area to be redeveloped;

(4) the relocation assistance plan as described in K.S.A. 2020 Supp. 12-17,172, and amendments thereto;

(5) a detailed description of the buildings and facilities proposed to be constructed or improved in such area;~~ and~~

(6) the names of the owners, partners, officers or principals of any developer of the project and of any associated business partner of any developer of the project that is involved in the STAR bond project; and

~~(6)~~*(7)* any other information the governing body of the city or county deems necessary to advise the public of the intent of the project plan.

(d) A copy of the STAR bond project plan prepared by a city shall be delivered to the board of county commissioners of the county and the board of education of any school district levying taxes on property within the STAR bond project area. A copy of the STAR bond project plan prepared by a county shall be delivered to the board of education of any school district levying taxes on property within the STAR bond project area.

(e) Upon a finding by the planning commission that the STAR bond project plan is consistent with the intent of the comprehensive plan for the development of the city, and a finding by the planning commission of the county, if any, with respect to a STAR bond project located wholly outside the boundaries of the city, that the STAR bond project plan is consistent with the intent of the comprehensive plan for the development of the county, the governing body of the city or county shall adopt a resolution stating that the city or county is considering the adoption of the STAR bond project plan. Such resolution shall:

(1) Give notice that a public hearing will be held to consider the adoption of the STAR bond project plan and fix the date, hour and place of such public hearing. *In addition to any other notice, such notice shall be conspicuously provided at a prominent location on the first page of the website of the county or city, if the county or city has a website*;

(2) describe the boundaries of the STAR bond project district within which the STAR bond project will be located and the date of establishment of such district;

(3) describe the boundaries of the area proposed to be included within the STAR bond project area; and

(4) state that the STAR bond project plan, including a summary of the feasibility study, market study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped or developed are available for inspection during regular office hours in the office of the city clerk or county clerk, respectively.

(f) (1) The date fixed for the public hearing to consider the adoption of the STAR bond project plan shall be not less than 30 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(2) A copy of the city or county resolution providing for the public hearing shall be by certified mail, return receipt requested, sent by the city to the board of county commissioners of the county and by the city or county to the board of education of any school district levying taxes on property within the proposed STAR bond project area. Copies also shall be sent by certified mail, return receipt requested to each owner and occupant of land within the proposed STAR bond project area not more than 10 days following the date of the adoption of the resolution. The resolution shall be published once in the official city or county newspaper not less than one week nor more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the STAR bond project area shall be published with the resolution.

(3) At the public hearing, a representative of the city or county shall present the city's or county's proposed STAR bond project plan. *The presentation shall include a discussion of the feasibility study, including a description of all state, federal and local tax incentives that apply within the STAR bond district or are anticipated to apply within the district pursuant to the project plan or to any business located in the district or that will locate in the district pursuant to the project plan.* Following the presentation of the STAR bond project area, all interested persons shall be given an opportunity to be heard. The governing body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

(g) The public hearing records and feasibility study shall be subject to the open records act, K.S.A. 45-215, and amendments thereto*, and, if the city or county has a website, shall be placed conspicuously on such website at the same location or linked to the same location on the first page of the website as the notice for the hearing*.

(h) Upon conclusion of the public hearing, the governing body may adopt the STAR bond project plan by ordinance or resolution passed upon a two-thirds vote of the members.

(i) After the adoption by the city or county governing body of a STAR bond project plan, the clerk of the city or county shall transmit a copy of the description of the land within the STAR bond project district, a copy of the ordinance or resolution adopting the plan and a map or plat indicating the boundaries of the district to the clerk, appraiser and treasurer of the county in which the district is located and to the governing bodies of the county and school district which levy taxes upon any property in the district. Such documents shall be transmitted following the adoption or modification of the plan or a revision of the plan on or before January 1 of the year in which the increment is first allocated to the taxing subdivision.

(j) If the STAR bond project plan is approved, the feasibility study shall be supplemented to include a copy of the minutes of the governing body meetings of any city or county whose bonding authority will be utilized in the STAR bond project, evidencing that a STAR bond project plan has been created, discussed and adopted by the city or county in a regularly scheduled open public meeting.

(k) Any substantial changes as defined in K.S.A. 2020 Supp. 12-17,162, and amendments thereto, to the STAR bond project plan as adopted shall be subject to a public hearing following publication of notice thereof at least twice in the official city or county newspaper.

(l) Any STAR bond project shall be completed within 20 years from the date of the approval of the STAR bond project plan. The maximum maturity on bonds issued to finance projects pursuant to this act shall not exceed 20 years.

(m) Kansas resident employees shall be given priority consideration for employment in construction projects located in a STAR bond project area.

(n) Any developer of a STAR bond project shall commence work on the project within two years from the date of adoption of the STAR bond project plan. Should the developer fail to commence work on the STAR bond project within the two-year period, funding for such project shall cease and the developer of such project or complex shall have one year *to resubmit the project to the secretary and* to appeal to the secretary for reapproval of such project and the funding for it. Should the project be reapproved, the two-year period for commencement shall apply.

Sec. 5. K.S.A. 2020 Supp. 12-17,169 is hereby amended to read as follows: 12-17,169. (a) (1) Any city or county shall have the power to issue special obligation bonds in one or more series to finance the undertaking of any STAR bond project in accordance with the provisions of this act. *Rural redevelopment projects, as defined in K.S.A. 12-17,162, and amendments thereto, may also be financed without the issuance of special obligation bonds up to an amount not to exceed $10,000,000 for each project.* Such special obligation bonds *or rural redevelopment project costs* shall be made payable, both as to principal and interest:

(A) From revenues of the city or county derived from or held in connection with the undertaking and carrying out of any STAR bond project or projects under this act including historic theater sales tax increments;

(B) from any private sources, contributions or other financial assistance from the state or federal government;

(C) from a pledge of 100% of the tax increment revenue received by the city from any local sales and use taxes, including the city's share of any county sales tax, which are collected from taxpayers doing business within that portion of the city's STAR bond project district established pursuant to K.S.A. 2020 Supp. 12-17,165, and amendments thereto, occupied by a STAR bond project, except for amounts committed to other uses by election of voters or pledged to bond repayment prior to the approval of the STAR bond project;

(D) at the option of the county in a city STAR bond project district, from a pledge of all of the tax increment revenues received by the county from any local sales and use taxes which are collected from taxpayers doing business within that portion of the city's STAR bond project district established pursuant to K.S.A. 2020 Supp. 12-17,165, and amendments thereto, except for amounts committed to other uses by election of voters or pledged to bond repayment prior to the approval of a STAR bond project;

(E) in a county STAR bond project district, from a pledge of 100% of the tax increment revenue received by the county from any county sales and use tax, but excluding any portions of such taxes that are allocated to the cities in such county pursuant to K.S.A. 12-192, and amendments thereto, which are collected from taxpayers doing business within that portion of the county's STAR bond project district established pursuant to K.S.A. 2020 Supp. 12-17,165, and amendments thereto, occupied by a STAR bond project;

(F) from a pledge of all or a portion of the tax increment revenue received from any state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond project district occupied by a STAR bond project, except that for any STAR bond project district established and approved by the secretary on or after January 1, 2017, such tax increment shall not include any sales tax revenue from retail automobile dealers, *and except that for any STAR bond project district established after July 1, 2021, with existing sales tax revenue at the time the district was established, such pledge shall not exceed 90% of the new tax increment revenue that is in excess of the base existing sales tax revenue received from any state sales taxes*;

(G) at the option of the city or county and with approval of the secretary, from all or a portion of the transient guest tax of such city or county;

(H) at the option of the city or county and with approval of the secretary: (i) From a pledge of all or a portion of increased revenue received

by the city or county from franchise fees collected from utilities and other businesses using public right-of-way within the STAR bond project district; or (ii) from a pledge of all or a portion of the revenue received by a city or county from local sales taxes or local transient guest and local use taxes; or

(I) by any combination of these methods.

The city or county may pledge such revenue to the repayment of such special obligation bonds prior to, simultaneously with, or subsequent to the issuance of such special obligation bonds.

(2) Bonds issued under subsection (a)(1) shall not be general obligations of the city or the county, nor in any event shall they give rise to a charge against its general credit or taxing powers, or be payable out of any funds or properties other than any of those set forth in subsection (a)(1) and such bonds shall so state on their face.

(3) Bonds issued under the provisions of subsection (a)(1) shall be special obligations of the city or county and are declared to be negotiable instruments. Such bonds shall be executed by the mayor and clerk of the city or the chairperson of the board of county commissioners and the county clerk and sealed with the corporate seal of the city or county. All details pertaining to the issuance of such special obligation bonds and terms and conditions thereof shall be determined by ordinance of the city or by resolution of the county.

All special obligation bonds issued pursuant to this act and all income or interest therefrom shall be exempt from all state taxes. Such special obligation bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. Such special obligation bonds shall, however, contain the following recitals: (i) The authority under which such special obligation bonds are issued; (ii) such bonds are in conformity with the provisions, restrictions and limitations thereof; and (iii) that such special obligation bonds and the interest thereon are to be paid from the money and revenue received as provided in subsection (a)(1).

(4) Any city or county issuing special obligation bonds under the provisions of this act may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(b) (1) Subject to the provisions of subsection (b)(2), any city shall have the power to issue full faith and credit tax increment bonds to finance the undertaking, establishment or redevelopment of any major motorsports complex, as defined in K.S.A. 2020 Supp. 12-17,162~~(k)~~, and amendments thereto. Such full faith and credit tax increment bonds shall be made payable, both as to principal and interest: (A) From the revenue sources identified in subsection (a)(1) or by any combination of these sources; and (B) subject to the provisions of subsection (b)(2), from a pledge of the city's full faith and credit to use its ad valorem taxing au-

thority for repayment thereof in the event all other authorized sources of revenue are not sufficient.

(2) Except as provided in subsection (b)(3), before the governing body of any city proposes to issue full faith and credit tax increment bonds as authorized by this subsection, the feasibility study required by K.S.A. 2020 Supp. 12-17,166(b), and amendments thereto, shall demonstrate that the benefits derived from the project will exceed the cost and that the income therefrom will be sufficient to pay the costs of the project. No full faith and credit tax increment bonds shall be issued unless the governing body states in the resolution required by K.S.A. 2020 Supp. 12-17,166(e), and amendments thereto, that it may issue such bonds to finance the proposed STAR bond project. The governing body may issue the bonds unless within 60 days following the conclusion of the public hearing on the proposed STAR bond project plan a protest petition signed by 3% of the qualified voters of the city is filed with the city clerk in accordance with the provisions of K.S.A. 25-3601 et seq., and amendments thereto. If a sufficient petition is filed, no full faith and credit tax increment bonds shall be issued until the issuance of the bonds is approved by a majority of the voters voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law. The failure of the voters to approve the issuance of full faith and credit tax increment bonds shall not prevent the city from issuing special obligation bonds in accordance with this section. No such election shall be held in the event the board of county commissioners or the board of education determines, as provided in K.S.A. 2020 Supp. 12-17,165, and amendments thereto, that the proposed STAR bond project district will have an adverse effect on the county or school district.

(3) As an alternative to subsection (b)(2), any city which adopts a STAR bond project plan for a major motorsports complex, but does not state its intent to issue full faith and credit tax increment bonds in the resolution required by K.S.A. 2020 Supp. 12-17,166(e), and amendments thereto, and has not acquired property in the STAR bond project area may issue full faith and credit tax increment bonds if the governing body of the city adopts a resolution stating its intent to issue the bonds and the issuance of the bonds is approved by a majority of the voters voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law. The failure of the voters to approve the issuance of full faith and credit tax increment bonds shall not prevent the city from issuing special obligation bonds pursuant to subsection (a)(1). Any project plan adopted by a city prior to the effective date of this act in accordance with K.S.A. 12-1772, and amendments thereto, shall not be invalidated by any requirements of this act.

(4) During the progress of any major motorsports complex project in which the project costs will be financed, in whole or in part, with the

proceeds of full faith and credit tax increment bonds, the city may issue temporary notes in the manner provided in K.S.A. 10-123, and amendments thereto, to pay the project costs for the major motorsports complex project. Such temporary notes shall not be issued and the city shall not acquire property in the STAR bond project area until the requirements of subsection (b)(2) or (b)(3), whichever is applicable, have been met.

(5) Full faith and credit tax increment bonds issued under this subsection shall be general obligations of the city and are declared to be negotiable instruments. Such bonds shall be issued in accordance with the general bond law. All such bonds and all income or interest therefrom shall be exempt from all state taxes. The amount of the full faith and credit tax increment bonds issued and outstanding which exceeds 3% of the assessed valuation of the city shall be within the bonded debt limit applicable to such city.

(6) Any city issuing full faith and credit tax increment bonds under the provisions of this subsection may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(c) (1) For each project financed with special obligation bonds payable from the revenues described in subsection (a)(1), the city or county shall prepare and submit to the secretary by October 1 of each year, a report describing the status of any projects within such STAR bond project area, any expenditures of the proceeds of special obligation bonds that have occurred since the last annual report and any expenditures of the proceeds of such bonds expected to occur in the future, including the amount of sales tax revenue, how such revenue has been spent, the projected amount of such revenue ~~and~~, the anticipated use of such revenue *and the names of the owners, partners, officers or principals of any developer and of any associated business partners of any developer that are involved in the STAR bond project*. The department of commerce shall compile this information and submit a report annually to the governor and the legislature by February 1 of each year.

(2) (A) In addition to the report referenced in paragraph (1), the department of commerce, in cooperation with the department of revenue, shall submit a report to the senate commerce committee and the house commerce, labor and economic development committee by January 31 of each session. The report shall include the following information for the last three calendar years and the most current year-to-date information available with respect to each STAR bond district:

(i) The *gross annual sales, gross annual sales projected pursuant to the STAR bond project plan and feasibility study, gross annual sales required to meet bond debt service requirements and other expenses,* amount of sales tax collected~~,~~ and the amount of any "base" sales taxes being allocated to the district;

(ii) the total amount of bond payments and other expenses incurred;

(iii) the total amount of bonds issued and the balance of the bonds, by district and by project in the district;

(iv) the remaining cash balance in the project to pay future debt service and other expenses;

(v) any new income producing properties being brought into a district and the base revenue going to the state general fund and incremental sales tax increases going to the district with respect to such properties;

(vi) the amount of bonds issued to repay private investors in the project with calculations showing the private and state share of indebtedness;

(vii) the percentage of local effort sales tax actually committed to the district compared to the state's share of sales tax percentage committed to the district;

(viii) the number of out-of-state visitors to a project *and description of the data gathered pursuant to the visitor tracking plan, including, but not limited to, residence zip code data*, a discussion of the visitor attraction properties of projects in the districts, and a comparison of the number of out-of-state visitors with the number of in-state visitors; and

(ix) if any information or data is not available, an explanation as to why it is not available.

(B) Either the senate commerce committee or the house committee on commerce, labor and economic development may amend the information required in the report with additional requests and clarification on a going forward basis.

(3) Cities, counties and developers shall provide all information requested by the secretary for the secretary's database as provided by K.S.A. 2020 Supp. 74-50,227, and amendments thereto. If the city or county has a website, a conspicuous link directly to the information pertaining to the city or county's STAR bond project on the secretary's database shall be placed on the city's or county's website. A separate link shall be provided for each STAR bond project of the city or county.

(d) *The reports pursuant to subsection (c)(1) and (2) shall include a description of all state, federal and local tax incentives that apply within the STAR bond district or to any business located in the district.*

(e) A city or county may use the proceeds of special obligation bonds or any uncommitted funds derived from sources set forth in this section to pay the bond project costs as defined in K.S.A. 2020 Supp. 12-17,162, and amendments thereto, to implement the STAR bond project plan.

~~(e)~~*(f)* With respect to a STAR bond project district established prior to January 1, 2003, for which, prior to January 1, 2003, the secretary made a finding as provided in subsection (a) that a STAR bond project would create a major tourism area for the state, such special obligation bonds shall be payable both as to principal and interest, from a pledge of all of

the revenue from any transient guest, state and local sales and use taxes collected from taxpayers as provided in subsection (a) whether or not revenues from such taxes are received by the city.

Sec. 6. K.S.A. 2020 Supp. 12-17,171 is hereby amended to read as follows: 12-17,171. (a) Any addition of area to the STAR bond project district, or any substantial change as defined in K.S.A. 2020 Supp. 12-17,162, and amendments thereto, to the STAR bond project district plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the STAR bond project district. Any such addition of area shall be limited to real property which has not been part of another STAR bond project district. The base year of a STAR bond project district, following the addition of area to the STAR bond project district, shall be the base year for the original area, and with respect to the additional area, the base year shall be any 12-month period immediately prior to the month in which additional area is added to the STAR bond project district.

(b) A city or county may remove real property from a STAR bond project district by an ordinance or resolution of the governing body respectively.

(c) A city or county may divide the real property in a STAR bond project district, including real property in different project areas within a STAR bond project district, into separate STAR bond project districts. Any division of real property within a STAR bond project district into more than one STAR bond project district shall be subject to the same procedure of public notice and hearing as is required for the establishment of the STAR bond project district.

(d) Subject to the provisions of subsection (a), if a city or county has undertaken a STAR bond project within a STAR bond project district, and either the city or county wishes to subsequently remove more than a de ~~minimus~~ *minimis* amount of real property from the STAR bond project district, or the city or county wishes to subsequently divide the real property in the STAR bond project district into more than one STAR bond project district, then prior to any such removal or division the city or county must provide a feasibility study which shows that the tax revenue from the resulting STAR bond project district within which the STAR bond project is located is expected to be sufficient to pay the project costs.

(e) Removal of real property from one STAR bond project district and addition of all or a portion of that real property to another STAR bond project district may be accomplished by the adoption of an ordinance or resolution, and in such event the determination of the existence or nonexistence of an adverse effect on the county or school district under K.S.A. 2020 Supp. 12-17,165(f), and amendments thereto, shall apply to both such removal and such addition of real property to a STAR bond project district.

(f) The transfer of any ownership interest in real property acquired with the proceeds from STAR bonds shall require the advance approval of the secretary. While such STAR bonds remain outstanding, such transfer shall also require the disclosure of the sale price and the name of any transferee and any individual owner, partner, officer or principal of such transferee. The information shall be included in the secretary's reports pursuant to K.S.A. 2020 Supp. 12-17,169(c)(1) and (2), and amendments thereto.

Sec. 7. K.S.A. 2020 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) *Subject to the provisions of section 61(h) of chapter 5 of the 2020 Session Laws of Kansas,* the provisions of this act regarding STAR bond projects shall expire on and after July 1, ~~2020~~ *2026*.

Sec. 8. K.S.A. 2020 Supp. 12-17,162, 12-17,165, 12-17,166, 12-17,169, 12-17,171 and 12-17,179 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 15, 2021.

CHAPTER 47

HOUSE BILL No. 2295

AN ACT concerning drivers' licenses; relating to commercial drivers' licenses; exempting municipal motor grader vehicle operators from the Kansas uniform commercial drivers' license act requirements; amending K.S.A. 2020 Supp. 8-2,127 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 8-2,127 is hereby amended to read as follows: 8-2,127. Vehicles that are exempt from this act include:

(a) Farm vehicles, defined as follows:

(1) Registered as a farm truck or truck tractor under K.S.A. 8-143, and amendments thereto;

(2) used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm;

(3) not used in the operations of a common motor carrier; and

(4) used either *in*:

(A) ~~In~~ Intrastate commerce; or

(B) ~~in~~ interstate commerce within 150 air miles of any farm or farms owned or leased by the registered owner of such farm vehicle;

(b) vehicles operated by firefighters and other persons ~~which~~ *that* are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals and are not subject to normal traffic regulation. These vehicles include fire trucks, hook and ladder trucks, foam or water transport trucks, police SWAT team vehicles, ambulances or other vehicles that are used in response to emergencies;

(c) military vehicles ~~which~~ *that* are operated by military personnel in pursuit of military purposes and all noncivilian operators of equipment owned or operated by the United States department of defense. This applies to any active duty military personnel and members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, civilians who are required to wear military uniforms and are subject to the uniform code of military justice or the Kansas code of military justice;

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

(e) farm tractors operated by an implement dealer, or employee thereof, when moved or transported in accordance with K.S.A. 2020 Supp. 8-1918, and amendments thereto*; and*

(f) motor grader vehicles operated by an employee of a municipality, as defined in K.S.A. 75-6102, and amendments thereto, if such employee is operating the motor grader vehicle within the boundaries of such municipality.

Sec. 2. K.S.A. 2020 Supp. 8-2,127 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 15, 2021.

CHAPTER 48

HOUSE BILL No. 2071

AN ACT concerning crimes, punishment and criminal procedure; relating to crimes against persons; increasing criminal penalties for stalking a minor; amending K.S.A. 2020 Supp. 21-5427 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 21-5427 is hereby amended to read as follows: 21-5427. (a) Stalking is:

(1) Recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear;

(2) engaging in a course of conduct targeted at a specific person with knowledge that the course of conduct will place the targeted person in fear for such person's safety or the safety of a member of such person's immediate family; ~~or~~

(3) after being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A. 2020 Supp. 21-5924, and amendments thereto, that prohibits contact with a targeted person, recklessly engaging in at least one act listed in subsection (f)(1) that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear*; or*

(4) intentionally engaging in a course of conduct targeted at a specific child under the age of 14 that would cause a reasonable person in the circumstances of the targeted child, or a reasonable person in the circumstances of an immediate family member of such child, to fear for such child's safety.

(b) Stalking as defined in:

(1) Subsection (a)(1) is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and

(B) severity level 7, person felony upon a second or subsequent conviction;

(2) subsection (a)(2) is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(2)(B); and

(B) severity level 5, person felony upon a second or subsequent conviction; ~~and~~

(3) subsection (a)(3) is a:

(A) Severity level 9, person felony, except as provided in subsection (b)(3)(B); and

(B) severity level 5, person felony, upon a second or subsequent conviction*; and*

(4) subsection (a)(4) is a:

(A) Severity level 7, person felony, except as provided in subsection (b)(4)(B); and

(B) severity level 4, person felony, upon a second or subsequent conviction.

(c) For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 2020 Supp. 21-5924, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted knowingly as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.

(d) In a criminal proceeding under this section, a person claiming an exemption, exception or exclusion has the burden of going forward with evidence of the claim.

(e) The present incarceration of a person alleged to be violating this section shall not be a bar to prosecution under this section.

(f) As used in this section:

(1) "Course of conduct" means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:

(A) Threatening the safety of the targeted person or a member of such person's immediate family;

(B) following, approaching or confronting the targeted person or a member of such person's immediate family;

(C) appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family;

(D) causing damage to the targeted person's residence or property or that of a member of such person's immediate family;

(E) placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person;

(F) causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family;

(G) any act of communication;

(2) "communication" means to impart a message by any method of transmission, including, but not limited to: Telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer;

(3) "computer" means a programmable, electronic device capable of accepting and processing data;

(4) "conviction" includes being convicted of a violation of K.S.A. 21-3438, prior to its repeal, this section or a law of another state which prohibits the acts that this section prohibits; and

(5) "immediate family" means father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person.

Sec. 2. K.S.A. 2020 Supp. 21-5427 is hereby repealed.

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

Approved April 16, 2021.

Published in the *Kansas Register* April 29, 2021.

CHAPTER 49

SENATE BILL No. 89

AN ACT concerning traffic regulations; relating to size and weight laws; exempting the transport of agricultural forage commodities from the secured loads statute; amending K.S.A. 8-1906 and repealing the existing section.

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

Section 1. K.S.A. 8-1906 is hereby amended to read as follows: 8-1906. (a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that:

(1) This section shall not prohibit the necessary spreading of any substance in highway maintenance or construction operations; and

(2) *(A)* subsections (a) and (c) shall not apply to*:*

(i) Trailers or semitrailers when hauling livestock if such trailers or semitrailers are properly equipped with a cleanout trap and such trap is operated in a closed position unless material is intentionally spilled when the trap is in a closed position*; or*

(ii) trucks, trailers or semitrailers when hauling agricultural forage commodities intrastate from the place of production to a market or place of storage or from a place of storage to a place of use. The provisions of this clause shall not apply to trucks, trailers or semitrailers hauling:

(a) Hay bales; or

(b) other packaged or bundled forage commodities.

(B) Paragraph (2)*(A)(i)* shall not apply to trailers or semitrailers used for hauling livestock when livestock are not being hauled in such trailers or semitrailers.

(b) All trailers or semitrailers used for hauling livestock shall be cleaned out periodically.

(c) No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

Sec. 2. K.S.A. 8-1906 is hereby repealed.

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

Approved April 16, 2021.

CHAPTER 50

HOUSE BILL No. 2167

AN ACT concerning motor vehicles; relating to license plates; permitting concrete mixer trucks and requiring dump trucks to display license plates on the front of vehicles; amending K.S.A. 2020 Supp. 8-133 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 8-133 is hereby amended to read as follows: 8-133. *(a)* The license plate assigned to the vehicle shall be attached to the rear ~~thereof~~ *of the vehicle* and shall be ~~so~~ displayed during the current registration year or years. *Except as otherwise provided in subsection (b),* a Kansas registered vehicle shall *not* have ~~no registration~~ *a license* plate ~~for any year on~~ *attached to* the front of the vehicle~~, except that: (a)~~.

(b) The following classes of vehicles shall attach a license plate in the location or locations specifically stated:

(1) The license plate issued for a truck tractor shall be attached to the front of the truck tractor; ~~(b)~~

(2) a model year license plate ~~may be attached to the front of~~ *issued for* an antique vehicle, in accordance with K.S.A. 8-172, and amendments thereto, *may be attached to the front of the antique vehicle*; ~~or (c)~~

(3) a personalized license plate ~~as authorized under subsection (c) of~~ *issued to a passenger vehicle or truck pursuant to* K.S.A. 8-132*(c)*, and amendments thereto, may be attached to the front of ~~a~~ *the* passenger vehicle or truck*;*

(4) the license plate issued for a motor vehicle used as a concrete mixer truck may be attached to either the front or rear of the vehicle; and

(5) the license plate issued for a motor vehicle used as a dump truck with a gross weight of 26,000 pounds or more shall be attached to the front of the vehicle. The provisions of this paragraph shall not apply to such vehicle if such vehicle is registered as a farm truck.

(c) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned ~~so as~~, to prevent the plate from swinging, and at a height not less than 12 inches from the ground, measuring from the bottom of such plate~~,~~. *The license plate shall be fastened* in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible.

(d) During any period in which the construction of license plates has been suspended pursuant to the provisions of K.S.A. 8-132, and amendments thereto, the plate, tag, token, marker or sign assigned to such vehicle shall be attached to and displayed on such vehicle in such place, position, manner and condition as shall be prescribed by the director of vehicles.

(e) A law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (b)(5). The provisions of this subsection shall expire and have no effect on and after January 1, 2022.

Sec. 2. K.S.A. 2020 Supp. 8-133 is hereby repealed.

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

Approved April 16, 2021.

CHAPTER 51

HOUSE BILL No. 2165

AN ACT concerning motor vehicles; relating to antique vehicles; providing that all vehicles that are more than 35 years old qualify as antique vehicles for registration purposes; amending K.S.A. 2020 Supp. 8-166 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 8-166 is hereby amended to read as follows: 8-166. The following words and phrases when used in this act shall for the purpose of this act have the following meaning:

(a) "Antique" means any vehicle, including an antique military vehicle, more than 35 years old, propelled by a motor using petroleum fuel, steam or electricity, or any combination thereof, *regardless of the age or type of the components or equipment installed on the vehicle*.

(b) "Person" means every natural person, firm, copartnership, association, corporation, club or organization.

(c) "Antique military vehicle" means a vehicle, regardless of the vehicle's size or weight, ~~which~~ *that* was manufactured for use in any country's military forces and is maintained to represent its military design, except that an antique military vehicle shall not include a fully tracked vehicle.

(d) The words and phrases defined in K.S.A. 8-126 and 8-126a, and amendments thereto, when used in this act, shall ~~have the meanings respectively ascribed to them~~ *mean the same as defined* by such sections.

Sec. 2. K.S.A. 2020 Supp. 8-166 is hereby repealed.

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

Approved April 16, 2021.

CHAPTER 52

HOUSE BILL No. 2101

AN ACT concerning the university engineering initiative act; relating to goals; authorizing transfers from the expanded lottery act revenues fund for certain fiscal years; requiring certain reports to the legislature from state educational institutions, the board of regents and the secretary of commerce; amending K.S.A. 74-8768, 76-7,137 and 76-7,139 and repealing the existing sections.

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

Section 1. K.S.A. 74-8768 is hereby amended to read as follows: 74-8768. (a) There is hereby created the expanded lottery act revenues fund in the state treasury. All expenditures and transfers from such fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be expended or transferred only for the purposes of reduction of state debt, state infrastructure improvements, the university engineering initiative act, reduction of local ad valorem tax in the same manner as provided for allocation of amounts in the local ad valorem tax reduction fund and reduction of the unfunded actuarial liability of the system attributable to the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, by the Kansas public employees retirement system.

(b) On ~~July 1, 2012, July 1, 2013, July 1, 2014, July 1, 2015, July 1, 2016, July 1, 2017, July 1, 2018, July 1, 2019, July 1, 2020, and~~ July 1, 2021, *July 1, 2022, July 1, 2023, July 1, 2024, July 1, 2025, July 1, 2026, July 1, 2027, July 1, 2028, July 1, 2029, July 1, 2030, and July 1, 2031,* or as soon thereafter such date as moneys are available, the first $10,500,000 credited to the expanded lottery act revenues fund shall be transferred by the director of accounts and reports from the expanded lottery act revenues fund in one or more substantially equal amounts, to each of the following: The Kan-grow engineering fund – KU, Kan-grow engineering fund – KSU and Kan-grow engineering fund – WSU. Each such special revenue fund shall receive $3,500,000 annually in each of such years. Commencing in fiscal year 2014, after such transfer has been made, 50% of the remaining moneys credited to the fund shall be transferred on a quarterly basis by the director of accounts and reports from the fund to the Kansas public employees retirement system fund to be applied to reduce the unfunded actuarial liability of the system attributable to the state of Kansas and participating employers under K.S.A. 74-4931 et seq., and amendments thereto, until the system as a whole attains an 80% funding ratio as certified by the board of trustees of the Kansas public employees retirement system.

Sec. 2. K.S.A. 76-7,137 is hereby amended to read as follows: 76-7,137. (a) The legislature of the state of Kansas hereby finds and declares that:

(1) Engineering intensive industries represent approximately one-third of the statewide payroll and tax base;

(2) under the university engineering initiative act, the secretary of commerce, in consultation with the board of regents, state educational institutions and private industry, shall develop a plan to ensure engineering industry partners find the new talent, designs and techniques needed to fuel economic growth and business success in Kansas;

(3) the goal of the university engineering initiative act is to increase the number of engineering graduates to 1,365 graduates per year in 2021, and *continue to generate this same number of graduates to meet the ongoing needs of the engineering workforce for as long as the university engineering initiative act is financed with annual transfers from the expanded lottery act revenues fund.* All moneys appropriated pursuant to this act shall be used to meet this goal; and

(4) the needs of the citizens of the state of Kansas will be best served if the secretary of commerce, the board of regents and the state educational institutions under the control and supervision of the board of regents are granted specific authority to assist in the expansion of the engineering programs.

(b) The exercise of the powers authorized by this act are deemed an essential governmental function in matters of public necessity for the entire state to increase the number of engineering graduates.

Sec. 3. K.S.A. 76-7,139 is hereby amended to read as follows: 76-7,139. (a) The secretary, the board of regents and the state educational institutions shall have all the powers necessary or convenient to carry out the purposes and provisions of this act.

(b) When reviewing plans of each state educational institution and making decisions regarding expenditures from the Kan-grow engineering fund – KU, Kan-grow engineering fund – KSU and Kan-grow engineering fund – WSU, the secretary, in consultation with the board of regents, shall consider the different needs of each state educational institution to expand such institution's program to increase the number of engineering graduates.

(c) On or before the first day of the 2017 regular session, the secretary shall conduct a review of each state educational institution's plan to meet the goals established in the university engineering initiative act. The report shall include an analysis of whether or not the institutions are on course to meet the goals established in this act.

(d) On or before January 10, 2022, and annually thereafter, each state educational institution, the board of regents and the secretary shall report to the committee on appropriations of the house of representatives and the committee on ways and means of the senate on how many engineering graduates remain in the state over the previous three years. Such

report shall provide detail concerning all efforts to increase retention of graduates and opportunities for graduates in the state and shall include information regarding the number of engineering graduates from each state educational institution that were initially enrolled as in-state or out-of-state students.

Sec. 4. K.S.A. 74-8768, 76-7,137 and 76-7,139 are hereby repealed.

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

Approved April 16, 2021.

CHAPTER 53

HOUSE BILL No. 2085*

AN ACT concerning postsecondary education; creating the students' right to know act; relating to the publication of certain information regarding postsecondary education.

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

Section 1. (a) The provisions of this section shall be known and may be cited as the students' right to know act.

(b) On or before October 15, 2022, and each year thereafter, the state department of education shall ensure the distribution, including by electronic communication, to each student or each student's parents the degree prospectus information published by the state board of regents in accordance with K.S.A. 74-32,303, and amendments thereto, the Kansas training information program report published in accordance with K.S.A. 74-32,418, and amendments thereto, any other information relevant to students' understanding of potential earnings as determined by the department of labor and the potential earnings published by each branch of the armed services of the United States military.

(c) To the extent permitted by law, the department shall enter into memorandums of understanding and any other necessary agreements with the state board of regents, the department of labor and any other state agencies or other entities as required to implement the provisions of this section.

(d) As used in this section, the term "student" means any person enrolled in any of the grades seven through 12 in a school district.

Sec. 2. This act shall take effect and be in force from and after January 1, 2022, and its publication in the statute book.

Approved April 16, 2021.

CHAPTER 54

HOUSE BILL No. 2247

AN ACT concerning roads and highways; designating a portion of K-67 highway as the COII Trenton J Brinkman memorial highway; designating bridges on U.S. highway 54 as the Jack Taylor memorial bridge and the Max Zimmerman memorial bridge; designating a bridge on United States highway 77 as the PFC Loren H Larson memorial bridge; designating a bridge on United States highway 166 as the SGT Tyler A Juden memorial bridge; designating a portion of United States highway 69 as the Senator Dennis Wilson memorial highway; designating a portion of K-7 as the Senator Bud Burke memorial highway; designating a portion of United States highway 77 as the CPL Allen E Oatney and SP4 Gene A Myers memorial highway; amending K.S.A. 68-1022 and repealing the existing section.

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

New Section 1. The portion of K-67 from the southern limits of the Norton correctional facility then north to the northern limits of the Norton correctional facility in Norton county is hereby designated as the COII Trenton J Brinkman memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs to indicate that the highway is the COII Trenton J Brinkman memorial highway.

New Sec. 2. Bridge no. 54-88-17.86 (013) located on United States highway 54 in Seward county is hereby designated as the Jack Taylor memorial bridge. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs to indicate the bridge is the Jack Taylor memorial bridge.

New Sec. 3. Bridge no. 54-88-17.87 (006) located on United States highway 54 in Seward county is hereby designated as the Max Zimmerman memorial bridge. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs to indicate the bridge is the Max Zimmerman memorial bridge.

New Sec. 4. Bridge no. 0081-B0058 located on United States highway 77 in Riley county is hereby designated as the PFC Loren H Larson memorial bridge. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs to indicate that the bridge is the PFC Loren H Larson memorial bridge.

New Sec. 5. Bridge no. 0018-0089 located on United States highway 166 in Cowley county is hereby designated as the SGT Tyler A Juden memorial bridge. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs to indicate the bridge is the SGT Tyler A Juden memorial bridge.

New Sec. 6. The portion of United States highway 69 from the southern junction of United States highway 69 with interstate highway

435 in Johnson county, then south on United States highway 69 to the junction of United States highway 69 and 135th street is hereby designated as the Senator Dennis Wilson memorial highway. Upon compliance with K.S.A. 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 Senator Dennis Wilson memorial highway.

New Sec. 7. The portion of K-7 from the junction of K-7 and K-10 in Johnson county, then south on K-7 to the junction of K-7 and west Santa Fe street is hereby designated as the Senator Bud Burke memorial highway. Upon compliance with K.S.A. 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 Senator Bud Burke memorial highway.

New Sec. 8. The portion of United States highway 77 from the western city limits of the city of Blue Rapids then west to the eastern city limits of the city of Waterville in Marshall county is hereby designated as the CPL Allen E Oatney and SP4 Gene A Myers memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs to indicate that the highway is the CPL Allen E Oatney and SP4 Gene A Myers memorial highway.

Sec. 9. K.S.A. 68-1022 is hereby amended to read as follows: 68-1022. It shall be the duty of the secretary of transportation to designate and mark by suitable signs, those portions of established highways ~~which~~ *that* traverse the state from the historic Hollenberg pony express station near the city of Hanover to the old cattle shipping town of Elgin, and connecting historic sites on the Oregon trail and the cities of Council Grove and Cottonwood Falls, as the prairie parkway, which highways are described as follows: Beginning at the Hollenberg pony express station east of Hanover on highway K-243; thence west to highway K-15E and south on K-15E to its junction with highway U.S. 36; thence east on highway U.S. 36 to its junction with highway U.S. 77; thence south on highway U.S. 77 to that highway's junction with *the western city limits of the city of Blue Rapids in Marshall county; thence south on highway U.S. 77 from its junction with highway K-9 in Marshall county to its junction with* highway K-16 just north of Randolph; thence east on highway K-16 to a junction with Pottawatomie county federal aid secondary route 1208, one-half mile east of Olsburg, Pottawatomie county, Kansas; thence on F.A.S. route 1208 in a southerly direction approximately five and one-half miles; thence southeasterly to the junction of highway K-13 and F.A.S. route 1208; thence south and southwest on highway K-13 to that highway's junction with highway U.S. 24; thence following K-177 south from the junction of

K-177 highway with interstate highway 70 to El Dorado; thence south on U.S. 77–U.S. 54 to the east junction with U.S. 400; thence east on U.S. 400 from the western boundary of Greenwood county to its junction with highway K-99 near Severy; thence south on K-99 to the southern Kansas border near the city of Chautauqua.

Sec. 10. K.S.A. 68-1022 is hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2021.

CHAPTER 55

HOUSE BILL No. 2379

AN ACT concerning transportation; relating to peer-to-peer vehicle sharing; establishing insurance requirements; liability; recordkeeping requirements; consumer protection provisions; enacting the peer-to-peer vehicle sharing program act; amending K.S.A. 2020 Supp. 50-656 and repealing the existing section.

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

New Section 1. Sections 1 through 13, and amendments thereto, shall be known and may be cited as the peer-to-peer vehicle sharing program act.

New Sec. 2. As used in this act:

(a) "Act" means the peer-to-peer vehicle sharing program act.

(b) "Peer-to-peer vehicle sharing" means the authorized use of a shared vehicle by an individual other than the shared vehicle's owner through a peer-to-peer vehicle sharing program. "Peer-to-peer vehicle sharing" does not include:

(1) The rental or lease of a motor vehicle for purposes of K.S.A. 79-5117, and amendments thereto;

(2) the use of a vehicle for demonstrations purposes; or

(3) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(c) "Peer-to-peer vehicle sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer vehicle sharing program" does not include:

(1) A rental car company;

(2) a lessor, as defined in K.S.A. 50-656, and amendments thereto;

(3) a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(4) the use of a vehicle for demonstration purposes; or

(5) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(d) "Vehicle sharing program agreement" means the terms and conditions applicable to a shared vehicle owner, a shared vehicle driver and a peer-to-peer vehicle sharing program that govern the use of a shared vehicle through a peer-to-peer vehicle sharing program. "Vehicle sharing program agreement" does not include:

(1) A rental agreement, as defined in K.S.A. 50-656, and amendments thereto;

(2) the use of a vehicle for demonstration purposes; or

(3) a leased, temporarily loaned or borrowed vehicle owned by a used or new vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(e) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer vehicle sharing program. "Shared vehicle" does not include:

(1) A rental vehicle, as defined in K.S.A. 50-656, and amendments thereto;

(2) a vehicle that is used for demonstration purposes; or

(3) a lease, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(f) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a vehicle sharing program agreement. "Shared vehicle driver" does not include:

(1) A lessee, as defined in K.S.A. 50-656, and amendments thereto;

(2) the operator of a vehicle that is used for demonstration purposes; or

(3) the operator of a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(g) (1) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer vehicle sharing program.

(2) "Shared vehicle owner" does not include:

(A) A lessor, as defined in K.S.A. 50-656, and amendments thereto;

(B) an owner of a vehicle that is used for demonstration purposes; or

(C) a leased, temporarily loaned or borrowed vehicle owned by a new or used vehicle dealer licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto.

(3) A "shared vehicle owner" is not a rental car company, a leasing company or any similar term, under any statute or rule and regulation.

(h) "Vehicle sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the vehicle sharing start time, if applicable, as documented by the governing vehicle sharing program agreement.

(i) "Vehicle sharing period" means the period of time that commences with the vehicle sharing delivery period or, if there is no vehicle sharing delivery period, that commences with the vehicle sharing start time and, in either case, that ends at the vehicle sharing termination time.

(j) "Vehicle sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer vehicle sharing program.

(k) "Vehicle sharing termination time" means the earliest of the following events:

(1) The expiration of the agreed-upon period of time established for the use of a shared vehicle according to the terms of the vehicle sharing program agreement if the shared vehicle is delivered to the location agreed upon in the vehicle sharing program agreement;

(2) when the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer vehicle sharing program and such alternatively agreed upon location is incorporated into the vehicle sharing program agreement; or

(3) when the shared vehicle owner or the shared vehicle owner's authorized designee takes possession and control of the shared vehicle.

New Sec. 3. (a) Except as provided in subsection (b), a peer-to-peer vehicle sharing program shall assume liability of a shared vehicle owner for bodily injury or property damage to third parties for uninsured and underinsured motorist or personal injury protection losses during the vehicle sharing period in amounts stated in the peer-to-peer vehicle sharing program agreement that shall not be less than those set forth in K.S.A. 40-3107, and amendments thereto.

(b) Notwithstanding the definition of "vehicle sharing termination time" as defined in section 2, and amendments thereto, the assumption of liability under subsection (a) shall not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission of fact to the peer-to-peer vehicle sharing program before the vehicle sharing period in which the loss occurred; or

(2) acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the vehicle sharing program agreement.

(c) Notwithstanding the definition of "vehicle sharing termination time" as defined in section 2, and amendments thereto, the assumption of liability under subsection (a) shall apply to bodily injury, property damage, uninsured and underinsured motorist or personal injury protection losses by damaged third parties as required by K.S.A. 40-3107, and amendments thereto.

(d) A peer-to-peer vehicle sharing program shall ensure that, during each vehicle sharing period, the shared vehicle owner and the shared

vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage in amounts not less than the minimum amounts set forth in K.S.A. 40-3107, and amendments thereto, and the policy:

(1) Recognizes that the vehicle insured under the policy has been made available as a shared vehicle and is used through a peer-to-peer vehicle sharing program; or

(2) does not exclude use of the vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) may be satisfied by motor vehicle liability insurance maintained by a:

(1) Shared vehicle owner;

(2) shared vehicle driver;

(3) peer-to-peer vehicle sharing program;

(4) shared vehicle owner and a peer-to-peer vehicle sharing program; or

(5) shared vehicle driver and a peer-to-peer vehicle sharing program.

(f) The insurance described under subsection (e) that satisfies the insurance requirement of subsection (d) shall be primary during each vehicle sharing period. In the event that a claim occurs in another state with insurance policy coverage amounts that exceed the minimum amounts set forth in K.S.A. 40-3107, and amendments thereto, during the vehicle sharing period, the coverage maintained under subsection (e) shall satisfy the difference in minimum coverage amounts up to the applicable policy limits.

(g) The insurer or peer-to-peer vehicle sharing program shall assume primary liability for a claim when it is in whole or in part providing the insurance required under subsections (d) and (e) and:

(1) A dispute exists as to who was in control of the shared vehicle at the time of the loss or a dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required by section 2(k), and amendments thereto; and

(2) the peer-to-peer vehicle sharing program does not have available, did not retain or fails to provide the information required under section 6, and amendments thereto.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) has lapsed or does not provide the required coverage, then insurance maintained by a peer-to-peer vehicle sharing program shall provide the coverage required by subsection (d) beginning with the first dollar of a claim and shall have the duty to defend such claim except under circumstances described in subsection (b).

(i) Coverage under a motor vehicle liability insurance policy maintained by the peer-to-peer vehicle sharing program shall not be dependent on another motor vehicle insurer first denying a claim nor shall another motor vehicle insurance policy be required to first deny a claim.

(j) Nothing in this section shall be construed to:

(1) Limit the liability of the peer-to-peer vehicle sharing program for any act or omission of the peer-to-peer vehicle sharing program itself that results in injury to any person as a result of the use of a shared vehicle through the peer-to-peer vehicle sharing program; or

(2) limit the ability of the peer-to-peer vehicle sharing program to contractually seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer vehicle sharing program resulting from a breach of the terms and conditions of the vehicle sharing program agreement.

New Sec. 4. Between the time that a vehicle owner registers as a shared vehicle owner on a peer-to-peer vehicle sharing program and the time that the shared vehicle owner makes a vehicle available as a shared vehicle on the program, the program shall notify the shared vehicle owner that if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer vehicle sharing program, including use without physical damage coverage, could violate the terms of the contract with the lienholder.

New Sec. 5. (a) An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

(1) Liability coverage for bodily injury and property damage;

(2) personal injury protection coverage as defined in K.S.A. 40-3103, and amendments thereto;

(3) uninsured and underinsured motorist coverage;

(4) medical benefits coverage as defined in K.S.A. 40-3103, and amendments thereto;

(5) comprehensive physical damage coverage; and

(6) collision physical damage coverage.

(b) Nothing in this section invalidates or limits an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use, that excludes coverage for motor vehicles made available for rent, sharing, hire or any business use.

(c) Nothing in this section invalidates, limits or restricts an insurer's ability under existing law to underwrite any insurance policy or to cancel and non-renew insurance policies.

New Sec. 6. A peer-to-peer vehicle sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not limited to, times used, vehicle sharing period pick up and drop off locations, fees paid by the shared vehicle driver and revenues received by the shared vehicle owner. The program shall provide such information upon request to

the shared vehicle owner, the shared vehicle owner's insurer or the shared vehicle driver's insurer to facilitate a claim coverage investigation, settlement, negotiation or litigation. The peer-to-peer vehicle sharing program shall retain such records for a period of time not less than the applicable personal injury statute of limitations.

New Sec. 7. A peer-to-peer vehicle sharing program and a shared vehicle owner shall be exempt from vicarious liability consistent with 49 U.S.C. § 30106 and under any state or local law that imposes liability based solely on vehicle ownership.

New Sec. 8. A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy shall have the right to seek recovery against the motor vehicle insurer of the peer-to-peer vehicle sharing program if the claim is:

(1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the vehicle sharing period; and

(2) excluded under the terms of its policy.

New Sec. 9. (a) Notwithstanding any other law, statute, rule or regulation to the contrary, a peer-to-peer vehicle sharing program shall have an insurable interest in a shared vehicle during the vehicle sharing period.

(b) Nothing in this section shall be construed to require that a peer-to-peer vehicle sharing program maintain the coverage mandated by section 3, and amendments thereto.

(c) A peer-to-peer vehicle sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(1) Liabilities assumed by the peer-to-peer vehicle sharing program under a peer-to-peer vehicle sharing program agreement;

(2) any liability of the shared vehicle owner;

(3) damage or loss to the shared motor vehicle; or

(4) any liability of the shared vehicle driver.

New Sec. 10. (a) Every vehicle sharing program agreement made in the state of Kansas shall disclose the following information to the shared vehicle owner and the shared vehicle driver, as appropriate:

(1) Any right of the peer-to-peer vehicle sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer vehicle sharing program resulting from a breach of the terms and conditions of the vehicle sharing program agreement;

(2) a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer vehicle sharing program;

(3) the peer-to-peer vehicle sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each vehicle sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the vehicle sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) the daily rate, fees and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(5) the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle; and

(6) if there are conditions under which a shared vehicle driver must maintain a personal motor vehicle liability insurance policy with certain applicable coverage limits on a primary basis in order to reserve a shared motor vehicle.

(b) Every vehicle sharing program agreement made in the state of Kansas shall also provide an emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries.

New Sec. 11. (a) A peer-to-peer vehicle sharing program shall not enter into a peer-to-peer vehicle sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(1) Holds a driver's license issued by the state of Kansas that authorizes the driver to operate vehicles of the class of the shared vehicle;

(2) is a nonresident who:

(A) Has a driver's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(B) is at least the legal age required of a resident to drive in the state of Kansas; or

(3) otherwise is specifically authorized by the state of Kansas to drive vehicles of the class of the shared vehicle.

(b) A peer-to-peer vehicle sharing program shall maintain a record of the name, address, driver's license number and place of issuance of the driver's license of the shared vehicle driver and every other person, if any, who will also drive the shared vehicle.

New Sec. 12. A peer-to-peer vehicle sharing program shall have sole responsibility for any equipment, such as a GPS system or other special equipment, that is installed in or on the shared vehicle to monitor or facilitate the vehicle sharing transaction, and shall agree to indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the vehicle sharing period not caused by the shared vehicle owner. The peer-to-peer vehicle sharing program shall have the right to seek indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs during the sharing period.

New Sec. 13. (a) After the time that a vehicle owner registers as a shared vehicle owner on a peer-to-peer vehicle sharing program but before the time that the shared vehicle owner makes a vehicle available as a shared vehicle on the peer-to-peer vehicle sharing program, the peer-to-peer vehicle sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls for which repairs correcting the safety recalls have not been made; and

(2) notify the shared vehicle owner of the requirements under subsection (b).

(b) (1) If a vehicle owner has received an actual notice of a safety recall on the owner's vehicle, the owner may not make such vehicle available as a shared vehicle on a peer-to-peer vehicle sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is available on the peer-to-peer vehicle sharing program, the shared vehicle owner shall remove the shared vehicle from the peer-to-peer vehicle sharing program as soon as practicable after receiving the notice of the safety recall and shall not replace such vehicle on the peer-to-peer vehicle sharing program until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used and is in the possession of a shared vehicle driver, as soon as practicable after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer vehicle sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

Sec. 14. K.S.A. 2020 Supp. 50-656 is hereby amended to read as follows: 50-656. (a) "Authorized driver" means:

(1) The lessee;

(2) the lessee's spouse if such spouse is a licensed driver and satisfies the lessor's minimum age requirement;

(3) any person who operates the vehicle during an emergency situation; or

(4) any person listed by the lessor on such lessee's contract as an authorized driver.

(b) "Collision damage waiver" means any contract or contractual provision, whether separate from or a part of a motor vehicle rental agreement, whereby the lessor agrees for a charge, to waive any and all claims against the lessee for any damage to the rental motor vehicle during the term of the rental agreement.

(c) "Lessor" means any person or organization in the business of providing rental motor vehicles to the public. *"Lessor" does not include a peer-to-peer vehicle sharing program, as defined in section 2, and amend-*

ments thereto, or a shared vehicle owner, as defined in section 2, and amendments thereto.

(d) "Lessee" means any person or organization obtaining the use of a rental motor vehicle from a lessor under the terms of a rental agreement. *"Lessee" does not include a "shared vehicle driver" as defined in section 2, and amendments thereto.*

(e) "Rental agreement" means any written agreement setting forth the terms and conditions governing the use of the rental motor vehicle by the lessee for a period of 60 days or less. *"Rental agreement" does not include a vehicle sharing program agreement, as defined in section 2, and amendments thereto.*

(f) "Rental motor vehicle" means a private passenger type vehicle or commercial type vehicle which, upon execution of a rental agreement, is made available to a lessee for the lessee's use. *"Rental motor vehicle" does not include a shared vehicle, as defined in section 2, and amendments thereto.*

Sec. 15. K.S.A. 2020 Supp. 50-656 is hereby repealed.

Sec. 16. This act shall take effect and be in force from and after January 1, 2022, and its publication in the statute book.

Approved April 16, 2021.

CHAPTER 56

HOUSE BILL No. 2245*

AN ACT concerning transportation; relating to the division of vehicles; authorizing the division of vehicles to collect emergency contact information; allowing individuals to list emergency contact information on applications for drivers' licenses, instruction permits and non-driver's identification cards; permitting law enforcement agencies to use emergency contact information in emergency situations.

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

Section 1. (a) Not later than July 1, 2022, the division of vehicles shall maintain in its files a record of the name, address and telephone number of each individual that the holder of a valid driver's license, instruction permit or non-driver's identification card, as provided in K.S.A. 8-1324, and amendments thereto, authorizes to be contacted in the event that the holder is injured or dies in a vehicular accident or another emergency situation.

(b) (1) A record maintained by the division under subsection (a) shall be confidential and shall not be subject to the provisions of 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, 2026, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

(2) Upon request, such record may be disclosed only:

(A) To a law enforcement officer, as defined by K.S.A. 74-5602, and amendments thereto, in this or another state; and

(B) for the purpose, as applicable, of making contact with a named individual to report the injury to or death of the holder of the driver's license, instruction permit or non-driver's identification card.

(c) An application for an original, renewal or duplicate driver's license, instruction permit or non-driver's identification card shall:

(1) Be designed to allow, but not require, the applicant to provide the name, address and telephone number of not more than two individuals to be contacted if the applicant is injured or dies in a circumstance described by subsection (a); and

(2) include a statement that describes the confidential nature of the information and states that, by providing the division with the information, the applicant consents to the limited disclosure and use of the information.

(d) The division shall establish and maintain on the division's website forms and procedures that the holder of a driver's license, instruction permit or non-driver's identification card may use to request that the division:

(1) Add specific emergency contact information described in subsection (a) to the appropriate file maintained by the division; or

(2) amend or delete emergency contact information the holder previously provided to the division.

(e) The forms and procedures established and maintained under subsection (d) shall:

(1) Comply with the requirements of subsection (c); and

(2) allow the holder of a driver's license, instruction permit or non-driver's identification card, or an authorized agent of such holder, to add, amend or delete information described by subsection (d) by either:

(A) Submitting an electronic form on the division's website; or

(B) delivering or mailing a paper form to the division.

(f) Subsection (b) shall not prohibit the division from disclosing information to the holder of a driver's license, instruction permit or non-driver's identification card, or such holder's authorized agent, or as otherwise provided in K.S.A. 74-2012, and amendments thereto.

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

Approved April 16, 2021.

CHAPTER 57

SENATE BILL No. 16
(Amended by Chapter 115)

AN ACT concerning the legislative division of post audit; removing the requirement to submit certain documents thereto; amending K.S.A. 22-4514a, 75-3728c, 76-721 and 79-3233b and repealing the existing sections.

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

Section 1. K.S.A. 22-4514a is hereby amended to read as follows: 22-4514a. (a) Any nonprofit corporation, organized under the laws of the state of Kansas for the purpose of providing legal services to indigent inmates of Kansas correctional institutions may submit its annual operating budget for the next fiscal year of the state, including salaries and all other expenses of operation, to the state board of indigents' defense services. Such budget shall set forth the maximum obligation of financial aid and contributions proposed for payment by the state board of indigents' defense services and the availability of any additional funds from the federal government and other sources to meet such operating costs.

(b) If such budget is approved by the state board of indigents' defense services, ~~on July 1 of the next fiscal year~~ the amount of the maximum obligation of financial aid to be paid by the state board of indigents' defense services as set forth in the approved budget may then be paid in a lump sum *amount* to the corporation *on July 1 of the next fiscal year*.

(c) After the end of the fiscal year, any such nonprofit corporation shall furnish ~~to the post auditor and the director of the budget~~ an audited statement of actual expenditures incurred *to the director of the budget*. Any balance remaining unused shall be applied to the next budget for the purposes specified in this section.

Sec. 2. K.S.A. 75-3728c is hereby amended to read as follows: 75-3728c. ~~(a) Thirty (30) days from the date the director of accounts and reports authorizes the write-off of any accounts receivable or taxes receivable, the director shall certify to the legislative post audit committee a summary of all such receivables which are written off.~~

~~(b)~~ The secretary of administration shall adopt rules and regulations as provided in K.S.A. 75-3706*, and amendments thereto,* specifying the conditions ~~which~~ *that* shall apply to the write-off of accounts receivable and taxes receivable. Any such rule and regulation may apply generally or be limited to receivables of certain state agencies or institutions or to certain classes of receivables.

Sec. 3. K.S.A. 76-721 is hereby amended to read as follows: 76-721. The board of regents, or any state educational institution with the approval of the board of regents, may enter into contracts with any party

or parties including any agency of the United States or any state or any subdivision of any state or with any person, partnership or corporation if the purpose of such contract is related to the operation or function of such board or institution. If such contract is with a corporation whose operations are substantially controlled by the board or any state educational institution, such contract shall provide that the books and records of such corporation shall be public records and shall require an annual audit by an independent certified public accountant to be furnished to the board of regents ~~and filed with the state agency in charge of post auditing state expenditures~~. All contracts of state educational institutions shall be subject to the provisions of K.S.A. 75-3711b, and amendments thereto.

Sec. 4. K.S.A. 79-3233b is hereby amended to read as follows: 79-3233b. (a) The secretary shall maintain a record of each abatement that reduces a final tax liability by $5,000 or more. Such record shall contain: (1) The name and address of the taxpayer, and the petitioner, if different; (2) the disputed tax liability including penalty and interest; (3) the taxpayer's grounds for contesting the liability together with all supporting evidence; (4) all staff recommendations, reports and audits; (5) the reasons for, conditions to, and the amount of the abatement; and (6) the payment made, if any. Such records shall be maintained by the department for nine years.

(b) The secretary shall make an annual report that identifies the taxpayer, summarizes the issues and the reasons for abatement, and states the amount of liability that was abated pursuant to this section for each abatement that reduced a final tax liability by $5,000 or more. The secretary shall file the report with the secretary of state~~, the division of post audit of the legislature~~ and the attorney general on or before September 30 of each year. Any other provision of law notwithstanding, the secretary shall make the annual report available for public inspection upon written request.

~~(c) In order to express the intent of the legislature upon first enactment of this section, the provisions of this section and amendments enacted herein shall be effective retroactively to the original enactment of this section on and after July 1, 1999.~~

Sec. 5. K.S.A. 22-4514a, 75-3728c, 76-721 and 79-3233b 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 16, 2021.

CHAPTER 58

Senate Substitute for HOUSE BILL No. 2104
(Amends Chapter 9)
(Amended by Chapter 115)

AN ACT concerning property taxation; relating to extending the due date for budget to state board of education when revenue neutral rate hearing is required; extending certain due dates relating to notice and hearing requirements to exceed the revenue neutral rate for purposes of property tax; relating to the state board of tax appeals, orders and notices, service by electronic means, time to request full and complete opinion, judicial review, burden of proof in district court, appointments, extending the time a board member may continue to serve after member's term expires, authorizing appointment by the governor of a member pro tempore under certain conditions; appraisal course requirements required to be approved by the real estate appraisal board; relating to appeals, prohibiting valuation increases in certain appeals; relating to county appraisers, eligibility list, notification when person no longer holds office, qualifications and appraisal courses for registered mass appraiser designation; appraisal standards; amending K.S.A. 72-5137, 74-2426, 74-2433, 74-2433f, 79-505, 79-1448, 79-1609, 79-1801, as amended by section 3 of 2021 Senate Bill No. 13, and 79-2005 and K.S.A. 2020 Supp. 19-430 and 19-432 and section 1 of 2021 Senate Bill No. 13 and repealing the existing sections.

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

Section 1. K.S.A. 72-5137 is hereby amended to read as follows: 72-5137. 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 postsecondary 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, *except when a school district must conduct a public hearing to approve exceeding the revenue neutral rate under section 1 of 2021 Senate Bill No. 13, and amendments thereto, a copy of such budget shall be certified to the state board on or before September 20*.

Sec. 2. K.S.A. 2020 Supp. 19-430 is hereby amended to read as follows: 19-430. (a) On July 1, 1993, and on July 1 of each fourth year thereafter, the board of county commissioners or governing body of any unified government of each county shall by resolution appoint a county appraiser for such county who shall serve for a term of four years expiring on June 30 of the

fourth year thereafter. No person shall be appointed or reappointed to or serve as county appraiser in any county under the provisions of this act unless such person shall have at least three years of mass appraisal experience and be qualified by the director of property valuation as an eligible Kansas appraiser under the provisions of this act. Whenever a vacancy shall occur in the office of county appraiser the board of county commissioners or governing body of any unified government shall appoint an eligible Kansas appraiser to fill such vacancy for the unexpired term. The person holding the office of county or district appraiser or performing the duties thereof on the effective date of this act shall continue to hold such office and perform such duties until a county appraiser is appointed under the provisions of this act. No person shall be appointed to the office of county or district appraiser or to fill a vacancy therein unless such person is currently: (1) A certified general real property appraiser pursuant to article 41 of chapter 58 of the Kansas Statutes Annotated, and amendments thereto; *or* (2) a registered mass appraiser pursuant to rules and regulations adopted by the secretary of revenue~~; or (3) holding a valid residential evaluation specialist or certified assessment evaluation designation from the international association of assessing officers~~. Notwithstanding the foregoing provision, the board of county commissioners or governing body of any unified government may appoint an interim county appraiser, subject to the approval of the director of property valuation, for a period not to exceed six months to fill a vacancy in the office of county appraiser pending the appointment of an eligible county appraiser under the provisions of this act.

(b) The secretary of revenue shall adopt rules and regulations ~~prior to October 1, 1997,~~ necessary to establish qualifications for the designation of a registered mass appraiser.

(c) On and after July 1, 2022, all appraisal courses necessary to qualify for the designation of a registered mass appraiser and all continuing education appraisal courses necessary to retain such designation shall be courses approved by the Kansas real estate appraisal board pursuant to K.S.A. 58-4105, and amendments thereto.

Sec. 3. K.S.A. 2020 Supp. 19-432 is hereby amended to read as follows: 19-432. (a) The director of property valuation shall maintain a current list of persons eligible to be appointed to the office of appraiser. Periodic issuance of this list shall constitute the official list of eligible Kansas appraisers who are candidates for appointment. Inclusion on this list shall be made dependent upon successful completion of a written examination as adopted and administered by the director.

(b) The director of property valuation shall be required to conduct training courses annually for the purpose of training appraisal candidates. These courses shall be designed to prepare students to successfully complete the written examinations required for eligible Kansas appraiser status.

(c) Once certified, an eligible Kansas appraiser may retain that status only through successful completion of additional appraisal courses at intervals as determined by the director of property valuation. The director shall be required to conduct training courses annually for the purpose of providing the additional curriculum required for retention of Kansas appraiser status. The director may accept ~~recognized~~ appraisal courses *approved by the Kansas real estate appraisal board pursuant to K.S.A. 58-4105, and amendments thereto,* as an alternative to courses conducted by the director's office to fulfill this requirement for the maintenance of eligible Kansas appraiser status.

(1) *After notice and an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act,* the director of property valuation may remove any person from the list of persons eligible to be appointed to the office of appraiser for any of the following acts or omissions:

(A) Failing to meet the minimum qualifications established by this section;

(B) a plea of guilty or nolo contendere to, or conviction of: (i) Any crime involving moral turpitude; or (ii) any felony charge; or

(C) entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real or personal property.

(2) Any person removed from the list of persons eligible to be appointed to the office of county appraiser under the provisions of this section shall immediately forfeit the office of county or district appraiser.

(3) An appeal may be taken to the state board of tax appeals from any final action of the director of property valuation under the provisions of this section pursuant to K.S.A. 74-2438, and amendments thereto.

(4) The director of property valuation may relist a person as an eligible county appraiser upon a showing of mitigating circumstances, restitution or expungement.

(d) The board of county commissioners or governing body of any unified government of each county shall immediately notify the director of property valuation when a person no longer holds the office of county appraiser for such county. The notification shall be made on a form provided by the director. If the person no longer holds the office of county appraiser before the expiration of a four-year term or the person does not complete a four-year term, then the notification shall include the reason therefor, unless otherwise precluded by law. The director shall make a notation on any eligibility list record of the person when the person no longer holds the office of county appraiser before the expiration of a four-year term or the person does not complete a four-year term.

Sec. 4. K.S.A. 74-2426 is hereby amended to read as follows: 74-2426. (a) Orders of the state board of tax appeals on any appeal, in any proceed-

ing under the tax protest, tax grievance or tax exemption statutes or in any other original proceeding before the board shall be rendered and served in accordance with the provisions of the Kansas administrative procedure act. Notwithstanding the provisions of K.S.A. 77-526(g), and amendments thereto, a written summary decision shall be rendered by the board and served within 14 days after the matter was fully submitted to the board unless this period is waived or extended with the written consent of all parties or for good cause shown. Any aggrieved party, within ~~14~~ *21* days *after service* of ~~receiving~~ the board's decision, may request a full and complete opinion be issued by the board in which the board explains its decision. Except as provided in subsection (c)(4), this full opinion shall be served by the board within 90 days of being requested. If the board has not rendered a summary decision or a full and complete opinion within the time periods described in this subsection, and such period has not been waived by the parties nor can the board show good cause for the delay, then the board shall refund any filing fees paid by the taxpayer. *Service of orders, decisions and opinions shall be made in accordance with K.S.A. 77-531, and amendments thereto.*

(b) Final orders of the board shall be subject to review pursuant to subsection (c) except that the aggrieved party may first file a petition for reconsideration of a full and complete opinion with the board in accordance with the provisions of K.S.A. 77-529, and amendments thereto.

(c) Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act, except that:

(1) The parties to the action for judicial review shall be the same parties as appeared before the board in the administrative proceedings before the board. The board shall not be a party to any action for judicial review of an action of the board.

(2) There is no right to review of any order issued by the board in a no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq., 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and statutes of a similar character.

(3) In addition to the cost of the preparation of the transcript, the appellant shall pay to the state board of tax appeals the other costs of certifying the record to the reviewing court. Such payment shall be made prior to the transmission of the agency record to the reviewing court.

(4) Appeal of an order of the board shall be to the court of appeals as provided in subsection (c)(4)(A), unless a taxpayer who is a party to the order requests review in district court pursuant to subsection (c)(4)(B).

(A) Any aggrieved party may file a petition for review of the board's order in the court of appeals. For purposes of such an appeal, the board's order shall become final only after the issuance of a full and complete opinion pursuant to subsection (a).

(B) At the election of a taxpayer, any summary decision or full and complete opinion of the board of tax appeals issued after June 30, 2014, may be appealed by filing a petition for review in the district court. Any appeal to the district court shall be a trial de novo. Notwithstanding K.S.A. 77-619, and amendments thereto, the trial de novo shall include an evidentiary hearing at which issues of law and fact shall be determined anew. *With regard to any matter properly submitted to the district court relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes or the determination of classification of property for assessment purposes, the county appraiser shall have the duty to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination.* District court review of orders issued by the board relating to the valuation or assessment of property for ad valorem tax purposes or relating to the tax protest shall be conducted by the court of the county in which the property is located, or, if located in more than one county, the court of any county in which any portion of the property is located.

(C) If a taxpayer requests review of a summary decision or full and complete opinion in district court pursuant to subsection (c)(4)(B), the taxpayer shall provide notice to the board as well as the parties. Upon receipt of the notice, the board's jurisdiction shall terminate, notwithstanding any prior request for a full and complete opinion under subsection (a), and the board shall not issue such opinion.

(d) If review of an order of the state board of tax appeals to the court of appeals relating to excise, income or estate taxes, is sought by a person other than the director of taxation, such person shall give bond for costs at the time the petition is filed. The bond shall be in the amount of 125% of the amount of taxes assessed or a lesser amount approved by the court of appeals and shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.

(e) Notwithstanding any provisions of K.S.A. 77-531, and amendments thereto, to the contrary, the state board of tax appeals shall serve an order or notice upon the party and the party's attorney of record, if any, by transmitting a copy of the order or notice to the person by electronic means, if such person requested and consented to service by electronic means. For purposes of this subsection, service by electronic means is complete upon transmission.

Sec. 5. K.S.A. 74-2433 is hereby amended to read as follows: 74-2433. (a) There is hereby created a state board of tax appeals, referred to in this act as the board. The board shall be composed of three members who shall be appointed by the governor, subject to confirmation by the senate

as provided in K.S.A. 75-4315b, and amendments thereto. For members appointed after June 30, 2014, one of such members shall have been regularly admitted to practice law in the state of Kansas and for a period of at least five years, have engaged in the active practice of law as a lawyer, judge of a court of record or any other court in this state; one of such members shall have engaged in active practice as a certified public accountant for a period of at least five years and one such member shall be a licensed certified general real property appraiser. In addition, the governor shall also appoint a chief hearing officer, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, who, in addition to other duties prescribed by this act, shall serve as a member pro tempore of the board. No successor shall be appointed for any judge of the court of tax appeals appointed before July 1, 2014. Such persons shall continue to serve as members on the board of tax appeals until their terms expire. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, including the chief hearing officer, shall exercise any power, duty or function as a member of the board until confirmed by the senate. Not more than two members of the board shall be of the same political party. Members of the board, including the chief hearing officer, shall be residents of the state. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, no more than one member shall be appointed from any one of the congressional districts of Kansas unless, after having exercised due diligence, the governor is unable to find a qualified replacement within 90 days after any vacancy on the board occurs. The members of the board, including the chief hearing officer, shall be selected with special reference to training and experience for duties imposed by this act and shall be individuals with legal, tax, accounting or appraisal training and experience. State board of tax appeals members shall be subject to the supreme court rules of judicial conduct applicable to all judges of the district court. The board shall be bound by the doctrine of stare decisis limited to published decisions of an appellate court. Members of the board, including the chief hearing officer, shall hold office for terms of four years. A member may continue to serve for a period of ~~90~~ *180* days after the expiration of the member's term, or until a successor has been appointed and confirmed, whichever is shorter. Except as otherwise provided, such terms of office shall expire on January 15 of the last year of such term. If a vacancy occurs on the board, or in the position for chief hearing officer, the governor shall appoint a successor to fill the vacancy for the unexpired term. Nothing in this section shall be construed to prohibit the governor from reappointing any member of the board, including the chief hearing officer, for additional four-year terms. The governor shall select one of its members to serve as chairperson. The votes of two members shall be required for any final order to be issued by

the board. Meetings may be called by the chairperson and shall be called on request of a majority of the members of the board and when otherwise prescribed by statute.

(b) Any member appointed to the state board of tax appeals and the chief hearing officer may be removed by the governor for cause, after public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The state board of tax appeals shall appoint, subject to approval by the governor, an executive director of the board, to serve at the pleasure of the board. The executive director shall: (1) Be in the unclassified service under the Kansas civil service act; (2) devote full time to the executive director's assigned duties; (3) receive such compensation as determined by the board, subject to the limitations of appropriations thereof; and (4) have familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director. The executive director shall perform such other duties as directed by the board.

(d) Appeals decided by the state board of tax appeals shall be made available to the public and shall be published by the board on the board's website within 30 days after the decision has been rendered. The board shall also publish a monthly report that includes all appeals decided that month as well as all appeals which have not yet been decided and are beyond the time limitations as set forth in K.S.A. 74-2426, and amendments thereto. Such report shall be made available to the public and transmitted by the board to the members of the Kansas legislature.

(e) After appointment, members of the state board of tax appeals that are not otherwise a state certified general real property appraiser shall complete the following course requirements: (1) A tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value; (2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value; (3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal; (4) an appraisal course with an emphasis on Kansas property tax laws; (5) an appraisal course on the techniques and procedures for the valuation of state assessed properties with an emphasis on unit valuation; and (6) a tested appraisal course on the techniques and procedures for the valuation of land devoted to agricultural use pursuant to K.S.A. 79-1476, and amendments thereto. *Such courses shall be courses approved by the Kansas real estate appraisal board pursuant to K.S.A. 58-4105, and amendments thereto.* Any member appointed to the board who is a certified real property appraiser shall only be required to take such educational courses as are required to maintain the appraisal license.

The executive director shall adopt rules and regulations prescribing a timetable for the completion of the course requirements and prescribing continued education requirements for members of the board.

(f) The state board of tax appeals shall have no capacity or power to sue or be sued.

(g) It is the intent of the legislature that proceedings in front of the board of tax appeals be conducted in a fair and impartial manner and that all taxpayers are entitled to a neutral interpretation of the tax laws of the state of Kansas. The provisions of the tax laws of this state shall be applied impartially to both taxpayers and taxing districts in cases before the board. Valuation appeals before the board shall be decided upon a determination of the fair market value of the fee simple of the property. Nothing in this section shall prohibit a property owner, during a property valuation appeal before the board, from raising arguments regarding classification. Cases before the board shall not be decided upon arguments concerning the shifting of the tax burden or upon any revenue loss or gain which may be experienced by the taxing district.

(h) Notwithstanding any provisions of subsection (a) to the contrary, the governor may appoint a former member in good standing of the board of tax appeals to serve as a member pro tempore of the board for a period not to exceed one year when, after having exercised due diligence, more than one vacancy on the board exists. Such member pro tempore may exercise any power, duty or function as is necessary to serve as a member of the board. Such member pro tempore shall serve at the pleasure of the governor and receive compensation for each day of actual attendance or work as a member based on a proration of the annual salary provided in K.S.A. 74-2434, and amendments thereto. The provisions of this subsection shall expire on June 30, 2023.

Sec. 6. K.S.A. 74-2433f is hereby amended to read as follows: 74-2433f. (a) There shall be a division of the state board of tax appeals known as the small claims and expedited hearings division. Hearing officers appointed by the chief hearing officer shall have authority to hear and decide cases heard in the small claims and expedited hearings division.

(b) The small claims and expedited hearings division shall have jurisdiction over hearing and deciding applications for the refund of protested taxes under the provisions of K.S.A. 79-2005, and amendments thereto, and hearing and deciding appeals from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, with regard to single-family residential property. The filing of an appeal with the small claims and expedited hearings division shall be a prerequisite for filing an appeal with the state board of tax appeals for appeals involving single-family residential property.

(c) At the election of the taxpayer, the small claims and expedited hearings division shall have jurisdiction over: (1) Any appeal of a decision, finding, order or ruling of the director of taxation, except an appeal, finding, order or ruling relating to an assessment issued pursuant to K.S.A. 79-5201 et seq., and amendments thereto, in which the amount of tax in controversy does not exceed $15,000; (2) hearing and deciding applications for the refund of protested taxes under the provisions of K.S.A. 79-2005, and amendments thereto, where the value of the property, other than property devoted to agricultural use, is less than $3,000,000 as reflected on the valuation notice; and (3) hearing and deciding appeals from decisions rendered pursuant to the provisions of K.S.A. 79-1448, and amendments thereto, and of article 16 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, other than those relating to land devoted to agricultural use, wherein the value of the property is less than $3,000,000 as reflected on the valuation notice.

(d) In accordance with the provisions of K.S.A. 74-2438, and amendments thereto, any party may elect to appeal any application or decision referenced in subsection (b) to the state board of tax appeals. Except as provided in subsection (b) regarding single-family residential property, the filing of an appeal with the small claims and expedited hearings division shall not be a prerequisite for filing an appeal with the state board of tax appeals under this section. Final decisions of the small claims and expedited hearings division may be appealed to the state board of tax appeals. An appeal of a decision of the small claims and expedited hearings division to the state board of tax appeals shall be de novo. The county bears the burden of proof in any appeal filed by the county pursuant to this section. *With regard to any matter properly submitted to the board relating to the determination of valuation of property for taxation purposes pursuant to this subsection, the board shall not increase the appraised valuation of the property to an amount greater than the final determination of appraised value by the county appraiser from which the taxpayer appealed to the small claims and expedited hearings division.*

(e) A taxpayer shall commence a proceeding in the small claims and expedited hearings division by filing a notice of appeal in the form prescribed by the rules of the state board of tax appeals which shall state the nature of the taxpayer's claim. The notice of appeal may be signed by the taxpayer, any person with an executed declaration of representative form from the property valuation division of the department of revenue or any person authorized to represent the taxpayer in subsection (f). Notice of appeal shall be provided to the appropriate unit of government named in the notice of appeal by the taxpayer. In any valuation appeal or tax protest commenced pursuant to articles 14 and 20 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, the hearing shall be con-

ducted in the county where the property is located or a county adjacent thereto. In any appeal from a final determination by the secretary of revenue, the hearing shall be conducted in the county in which the taxpayer resides or a county adjacent thereto.

(f) The hearing in the small claims and expedited hearings division shall be informal. The hearing officer may hear any testimony and receive any evidence the hearing officer deems necessary or desirable for a just determination of the case. A hearing officer shall have the authority to administer oaths in all matters before the hearing officer. All testimony shall be given under oath. A party may appear personally or may be represented by an attorney, a certified public accountant, a certified general appraiser, a tax representative or agent, a member of the taxpayer's immediate family or an authorized employee of the taxpayer. A county or unified government may be represented by the county appraiser, designee of the county appraiser, county attorney or counselor or other representatives so designated. No transcript of the proceedings shall be kept.

(g) The hearing in the small claims and expedited hearings division shall be conducted within 60 days after the appeal is filed in the small claims and expedited hearings division unless such time period is waived by the taxpayer. A decision shall be rendered by the hearing officer within 30 days after the hearing is concluded and, in cases arising from appeals described by subsections (b) and (c)(2) and (3), shall be accompanied by a written explanation of the reasoning upon which such decision is based. Documents provided by a taxpayer or county or district appraiser shall be returned to the taxpayer or the county or district appraiser by the hearing officer and shall not become a part of the board's permanent records. Documents provided to the hearing officer shall be confidential and may not be disclosed, except as otherwise specifically provided.

(h) With regard to any matter properly submitted to the division relating to the determination of valuation of property for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. With regard to leased commercial and industrial property, the burden of proof shall be on the taxpayer unless the taxpayer has furnished the county or district appraiser, within 30 calendar days following the informal meeting required by K.S.A. 79-1448, and amendments thereto, or within 30 calendar days following the informal meeting required by K.S.A. 79-2005, and amendments thereto, a complete income and expense statement for the property for the three years next preceding the year of appeal. Such income and expense statement shall be in such format that is regularly maintained by the taxpayer in the ordinary

course of the taxpayer's business. If the taxpayer submits a single property appraisal with an effective date of January 1 of the year appealed, the burden of proof shall return to the county appraiser. *With regard to any matter properly submitted to the division relating to the determination of valuation of property for taxation purposes, the hearing officer shall not increase the appraised valuation of the property to an amount greater than the final determination of appraised value by the county appraiser from which the taxpayer appealed.*

Sec. 7. K.S.A. 79-505 is hereby amended to read as follows: 79-505. (a) The director of property valuation shall adopt ~~rules and regulations or~~ appraiser directives prescribing appropriate standards for the performance of appraisals in connection with ad valorem taxation in this state. Such ~~rules and regulations or~~ appraiser directives shall require, at a minimum:

(1) That all appraisals be performed in ~~accordance with generally accepted appraisal standards as evidenced by the appraisal standards~~ *compliance with the uniform standards of professional appraisal practice, commonly referred to as "USPAP,"* promulgated by the appraisal standards board of the appraisal foundation; and

(2) that such appraisals shall be written appraisals.

(b) The director of property valuation ~~or a county appraiser~~ may require compliance with additional standards if a determination is made in writing that such additional standards are required in order to properly carry out statutory responsibilities *and such additional standards do not conflict with the uniform standards of professional appraisal practice, commonly referred to as "USPAP," promulgated by the appraisal standards board of the appraisal foundation*.

Sec. 8. K.S.A. 79-1448 is hereby amended to read as follows: 79-1448. Any taxpayer may complain or appeal to the county appraiser from the classification or appraisal of the taxpayer's property by giving notice to the county appraiser within 30 days subsequent to the date of mailing of the valuation notice required by K.S.A. 79-1460, and amendments thereto, for real property, and on or before May 15 for personal property. The county appraiser or the appraiser's designee shall arrange to hold an informal meeting with the aggrieved taxpayer with reference to the property in question. At such meeting it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property, including, a summary of the reasons that the valuation of the property has been increased over the previous year, any assumptions used by the county appraiser to determine the value of the property and a description of the individual property characteristics, property specific valuation records and conclusions. The taxpayer shall be provided with the opportunity

to review the data sheets applicable to the valuation approach utilized for the subject property. The county appraiser shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation for the property. In any appeal from the appraisal of leased commercial and industrial property, the county or district appraiser's appraised value shall be presumed to be valid and correct and may only be rebutted by a preponderance of the evidence, unless the property owner furnishes the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal within 30 calendar days following the informal meeting. In any appeal from the reclassification of property that was classified as land devoted to agricultural use for the preceding year, the taxpayer's classification of the property as land devoted to agricultural use shall be presumed to be valid and correct if the taxpayer provides an executed lease agreement or other documentation demonstrating a commitment to use the property for agricultural use, if no other actual use is evident. The county appraiser may extend the time in which the taxpayer may informally appeal from the classification or appraisal of the taxpayer's property for just and adequate reasons. Except as provided in K.S.A. 79-1404, and amendments thereto, no informal meeting regarding real property shall be scheduled to take place after May 15, nor shall a final determination be given by the appraiser after May 20. Any final determination shall be accompanied by a written explanation of the reasoning upon which such determination is based when such determination is not in favor of the taxpayer. *The county appraiser shall not increase the appraised valuation of the property as a result of the informal meeting.* Any taxpayer who is aggrieved by the final determination of the county appraiser may appeal to the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, and such hearing officer, or panel, for just cause shown and recorded, is authorized to change the classification or valuation of specific tracts or individual items of real or personal property in the same manner provided for in K.S.A. 79-1606, and amendments thereto. In lieu of appealing to a hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, any taxpayer aggrieved by the final determination of the county appraiser, except with regard to land devoted to agricultural use, wherein the value of the property, is less than $3,000,000, as reflected on the valuation notice, or the property constitutes single family residential property, may appeal to the small claims and expedited hearings division of the state board of tax appeals within the time period prescribed by K.S.A. 79-1606, and amendments thereto. Any taxpayer who is aggrieved by the final determination of a hearing officer or panel may appeal to the state board of tax appeals as provided in K.S.A. 79-

1609, and amendments thereto. An informal meeting with the county appraiser or the appraiser's designee shall be a condition precedent to an appeal to the county or district hearing panel.

Sec. 9. K.S.A. 79-1609 is hereby amended to read as follows: 79-1609. Any person aggrieved by any order of the hearing officer or panel, or by the classification and appraisal of an independent appraiser, as provided in K.S.A. 79-5b03, and amendments thereto, may appeal to the state board of tax appeals by filing a written notice of appeal, on forms approved by the state board of tax appeals and provided by the county clerk for such purpose, stating the grounds thereof and a description of any comparable property or properties and the appraisal thereof upon which they rely as evidence of inequality of the appraisal of their property, if that be a ground of the appeal, with the state board of tax appeals and by filing a copy thereof with the county clerk within 30 days after the date of the order from which the appeal is taken. The notice of appeal may be signed by the taxpayer, any person with an executed declaration of representative form from the property valuation division of the department of revenue or any person authorized to represent the taxpayer in K.S.A. 74-2433f(f), and amendments thereto. A county or district appraiser may appeal to the state board of tax appeals from any order of the hearing officer or panel. With regard to any matter properly submitted to the board relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination. With regard to leased commercial and industrial property, the burden of proof shall be on the taxpayer unless, within 30 calendar days following the informal meeting required by K.S.A. 79-1448, and amendments thereto, the taxpayer furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. Such income and expense statement shall be in such format that is regularly maintained by the taxpayer in the ordinary course of the taxpayer's business. If the taxpayer submits a single property appraisal with an effective date of January 1 of the year appealed, the burden of proof shall return to the county appraiser. *With regard to any matter properly submitted to the board relating to the determination of valuation of property for taxation purposes, the board shall not increase the appraised valuation of the property to an amount greater than the final determination of appraised value by the county appraiser from which the taxpayer appealed.*

Sec. 10. K.S.A. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the

whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole or in part in an amount equal to at least ½ of such taxes on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state board of tax appeals and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and citing any law, statute or facts on which such taxpayer relies in protesting the whole or any part of such taxes. When the grounds of such protest is an assessment of taxes made pursuant to K.S.A. 79-332a and 79-1427a, and amendments thereto, the county treasurer may not distribute the taxes paid under protest until such time as the appeal is final. When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, schedule an informal meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. At the informal meeting, it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property, including a summary of the reasons that the valuation of the property has been increased over the preceding year, any assumptions used by the county appraiser to determine the value of the property and a description of the individual property characteristics, property specific valuation records and conclusions. The taxpayer shall be provided with the opportunity to review the data sheets applicable to the valuation approach utilized for the subject property. The county appraiser shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation of the property. The county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property, if in the county appraiser's opinion a change in the valuation of the taxpayer's property is required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer in the event the valuation of the taxpayer's property is changed, in writing of the results of the meeting. *The county appraiser shall not increase the appraised valuation of the property as a result of the informal meeting.* In the event the valuation of the taxpayer's property is changed and such change requires a refund of taxes and interest thereon, the county treasurer shall process the refund in the manner provided by subsection (l).

(b) No protest appealing the valuation or assessment of property shall be filed pertaining to any year's valuation or assessment when an appeal

of such valuation or assessment was commenced pursuant to K.S.A. 79-1448, and amendments thereto, nor shall the second half payment of taxes be protested when the first half payment of taxes has been protested. Notwithstanding the foregoing, this provision shall not prevent any subsequent owner from protesting taxes levied for the year in which such property was acquired, nor shall it prevent any taxpayer from protesting taxes when the valuation or assessment of such taxpayer's property has been changed pursuant to an order of the director of property valuation.

(c) A protest shall not be necessary to protect the right to a refund of taxes in the event a refund is required because the final resolution of an appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto, occurs after the final date prescribed for the protest of taxes.

(d) If the grounds of such protest shall be that the valuation or assessment of the property upon which the taxes so protested are levied is illegal or void, such statement shall further state the exact amount of valuation or assessment which the taxpayer admits to be valid and the exact portion of such taxes which is being protested.

(e) If the grounds of such protest shall be that any tax levy, or any part thereof, is illegal, such statement shall further state the exact portion of such tax which is being protested.

(f) Upon the filing of a written statement of protest, the grounds of which shall be that any tax levied, or any part thereof, is illegal, the county treasurer shall mail a copy of such written statement of protest to the state board of tax appeals and the governing body of the taxing district making the levy being protested.

(g) Within 30 days after notification of the results of the informal meeting with the county appraiser pursuant to subsection (a), the protesting taxpayer may, if aggrieved by the results of the informal meeting with the county appraiser, appeal such results to the state board of tax appeals.

(h) After examination of the copy of the written statement of protest and a copy of the written notification of the results of the informal meeting with the county appraiser in cases where the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act, unless waived by the interested parties in writing. If the grounds of such protest is that the valuation or assessment of the property is illegal or void the board shall notify the county appraiser thereof.

(i) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board. With regard to any matter properly submitted to the board relating to the

determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes, it shall be the duty of the county appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination except that no such duty shall accrue to the county or district appraiser with regard to leased commercial and industrial property unless the property owner has furnished to the county or district appraiser a complete income and expense statement for the property for the three years next preceding the year of appeal. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. In all instances where the board sets a request for hearing and requires the representation of the county by its attorney or counselor at such hearing, the county shall be represented by its county attorney or counselor. The board shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation for the property. In any appeal from the reclassification of property that was classified as land devoted to agricultural use for the preceding year, the taxpayer's classification of the property as land devoted to agricultural use shall be presumed to be valid and correct if the taxpayer provides an executed lease agreement or other documentation demonstrating a commitment to use the property for agricultural use, if no other actual use is evident. *With regard to any matter properly submitted to the board relating to the determination of valuation of property for taxation purposes, the board shall not increase the appraised valuation of the property to an amount greater than the appraised value reflected in the notification of the results of the informal meeting with the county appraiser from which the taxpayer appealed.*

(j) When a determination is made as to the merits of the tax protest, the board shall render and serve its order thereon. The county treasurer shall notify all affected taxing districts of the amount by which tax revenues will be reduced as a result of a refund.

(k) If a protesting taxpayer fails to file a copy of the written statement of protest and a copy, when applicable, of the written notification of the results of the informal meeting with the county appraiser with the board within the time limit prescribed, such protest shall become null and void and of no effect whatsoever.

(l) (1) In the event the board orders that a refund be made pursuant to this section or the provisions of K.S.A. 79-1609, and amendments thereto, or a court of competent jurisdiction orders that a refund be made, and no appeal is taken from such order, or in the event a change in valuation which results in a refund pursuant to subsection (a), the county treasurer shall, as soon thereafter as reasonably practicable, refund to the taxpayer such protested taxes and, with respect to protests or appeals

commenced after the effective date of this act, interest computed at the rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two percentage points, per annum from the date of payment of such taxes from tax moneys collected but not distributed. Upon making such refund, the county treasurer shall charge the fund or funds having received such protested taxes, except that, with respect to that portion of any such refund attributable to interest the county treasurer shall charge the county general fund. In the event that the state board of tax appeals or a court of competent jurisdiction finds that any time delay in making its decision is unreasonable and is attributable to the taxpayer, it may order that no interest or only a portion thereof be added to such refund of taxes.

(2) No interest shall be allowed pursuant to paragraph (1) in any case where the tax paid under protest was inclusive of delinquent taxes.

(m) Whenever, by reason of the refund of taxes previously received or the reduction of taxes levied but not received as a result of decreases in assessed valuation, it will be impossible to pay for imperative functions for the current budget year, the governing body of the taxing district affected may issue no-fund warrants in the amount necessary. Such warrants shall conform to the requirements prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by such section and may be issued without the approval of the state board of tax appeals. The governing body of such taxing district shall make a tax levy at the time fixed for the certification of tax levies to the county clerk next following the issuance of such warrants sufficient to pay such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized by law.

(n) Whenever a taxpayer appeals to the board of tax appeals pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, or pays taxes under protest related to one property whereby the assessed valuation of such property exceeds 5% of the total county assessed valuation of all property located within such county and the taxpayer receives a refund of such taxes paid under protest or a refund made pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, the county treasurer or the governing body of any taxing subdivision within a county may request the pooled money investment board to make a loan to such county or taxing subdivision as provided in this section. The pooled money investment board is authorized and directed to loan to such county or taxing subdivision sufficient funds to enable the county or taxing subdivision to refund such taxes to the taxpayer. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan. Each loan shall bear interest at a rate equal to the net earnings rate of the pooled money investment portfolio at the time of

the making of such loan. The total aggregate amount of loans under this program shall not exceed $50,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Upon certification to the pooled money investment board by the county treasurer or governing body of the amount of each loan authorized pursuant to this subsection, the pooled money investment board shall transfer each such amount certified by the county treasurer or governing body from the state bank account or accounts prescribed in this subsection to the county treasurer who shall deposit such amount in the county treasury. Any such loan authorized pursuant to this subsection shall be repaid within four years. The county or taxing subdivision shall make not more than four equal annual tax levies at the time fixed for the certification of tax levies to the county clerk following the making of such loan sufficient to pay such loan within the time period required under such loan. All such tax levies shall be in addition to all other levies authorized by law.

(o) The county treasurer shall disburse to the proper funds all portions of taxes paid under protest and shall maintain a record of all portions of such taxes which are so protested and shall notify the governing body of the taxing district levying such taxes thereof and the director of accounts and reports if any tax protested was levied by the state.

(p) This statute shall not apply to the valuation and assessment of property assessed by the director of property valuation and it shall not be necessary for any owner of state assessed property, who has an appeal pending before the state board of tax appeals, to protest the payment of taxes under this statute solely for the purpose of protecting the right to a refund of taxes paid under protest should that owner be successful in that appeal.

Sec. 11. Section 1 of 2021 Senate Bill No. 13 is hereby amended to read as follows: Section 1. (a) On or before June 15 each year, the county clerk shall calculate the revenue neutral rate for each taxing subdivision and include such revenue neutral rate on the notice of the estimated assessed valuation provided to each taxing subdivision for budget purposes. The director of accounts and reports shall modify the prescribed budget information form to show the revenue neutral rate.

(b) No tax rate in excess of the revenue neutral rate shall be levied by the governing body of any taxing subdivision unless a resolution or ordinance has been approved by the governing body according to the following procedure:

(1) At least 10 days in advance of the public hearing, the governing body shall publish notice of its proposed intent to exceed the revenue

neutral rate by publishing notice: (A) On the website of the governing body, if the governing body maintains a website; and

(B) in a weekly or daily newspaper of the county having a general circulation therein. The notice shall include, but not be limited to, its proposed tax rate, its revenue neutral rate and the date, time and location of the public hearing.

(2) On or before July ~~15~~ *20*, the governing body shall notify the county clerk of its proposed intent to exceed the revenue neutral rate and provide the date, time and location of the public hearing and its proposed tax rate. For all tax years commencing after December 31, 2021, the county clerk shall notify each taxpayer with property in the taxing subdivision, by mail directed to the taxpayer's last known address, of the proposed intent to exceed the revenue neutral rate at least 10 days in advance of the public hearing. Alternatively, the county clerk may transmit the notice to the taxpayer by electronic means at least 10 days in advance of the public hearing, if such taxpayer and county clerk have consented in writing to service by electronic means. The county clerk shall consolidate the required information for all taxing subdivisions relevant to the taxpayer's property on one notice. The notice shall be in a format prescribed by the director of accounts and reports. The notice shall include, but not be limited to:

(A) The revenue neutral rate of each taxing subdivision relevant to the taxpayer's property;

(B) the proposed property tax revenue needed to fund the proposed budget of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate;

(C) the proposed tax rate based upon the proposed budget and the current year's total assessed valuation of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate;

(D) the tax rate and property tax of each taxing subdivision on the taxpayer's property from the previous year's tax statement;

(E) the appraised value and assessed value of the taxpayer's property for the current year;

(F) the estimates of the tax for the current tax year on the taxpayer's property based on the revenue neutral rate of each taxing subdivision and any proposed tax rates that exceed the revenue neutral rates;

(G) the difference between the estimates of tax based on the proposed tax rate and the revenue neutral rate on the taxpayer's property described in subparagraph (F) for any taxing subdivision that has a proposed tax rate that exceeds its revenue neutral rate; and

(H) the date, time and location of the public hearing of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate.

Although the state of Kansas is not a taxing subdivision for purposes of this section, the notice shall include a statement of the statutory mill levies imposed by the state and the estimate of the tax for the current year on the taxpayer's property based on such levies.

(3) The public hearing to consider exceeding the revenue neutral rate shall be held not sooner than August ~~10~~ *20* and not later than September ~~10~~ *20*. The governing body shall provide interested taxpayers desiring to be heard an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. The public hearing may be conducted in conjunction with the proposed budget hearing pursuant to K.S.A. 79-2929, and amendments thereto, if the governing body otherwise complies with all requirements of this section. Nothing in this section shall be construed to prohibit additional public hearings that provide additional opportunities to present testimony or public comment prior to the public hearing required by this section.

(4) A majority vote of the governing body, by the adoption of a resolution or ordinance to approve exceeding the revenue neutral rate, shall be required prior to adoption of a proposed budget that will result in a tax rate in excess of the revenue neutral rate. Such vote of the governing body shall be conducted at the public hearing after the governing body has heard from interested taxpayers. If the governing body approves exceeding the revenue neutral rate, the governing body shall not adopt a budget that results in a tax rate in excess of its proposed tax rate as stated in the notice provided pursuant to this section.

(c) Any governing body subject to the provisions of this section that does not comply with subsection (b) shall refund to taxpayers any property taxes over-collected based on the amount of the levy that was in excess of the revenue neutral rate. The provisions of this subsection shall not be construed as prohibiting any other remedies available under the law.

(d) *Notwithstanding any other provision of law to the contrary,* if the governing body of a taxing subdivision must conduct a public hearing to approve exceeding the revenue neutral rate under this section, the governing body of the taxing subdivision shall certify, on or before ~~September 20~~ *October 1*, to the proper county clerk the amount of ad valorem tax to be levied.

(e) As used in this section:

(1) "Taxing subdivision" means any political subdivision of the state that levies an ad valorem tax on property.

(2) "Revenue neutral rate" means the tax rate for the current tax year that would generate the same property tax revenue as levied the previous tax year using the current tax year's total assessed valuation. To calculate the revenue neutral rate, the county clerk shall divide the property tax revenue for such taxing subdivision levied for the previous tax year by the total of all

taxable assessed valuation in such taxing subdivision for the current tax year, and then multiply the quotient by 1,000 to express the rate in mills. The revenue neutral rate shall be expressed to the third decimal place.

(f) In the event that a county clerk incurred costs of printing and postage that were not reimbursed pursuant to section 7, and amendments thereto, such county clerk may seek reimbursement from all taxing subdivisions required to send the notice. Such costs shall be shared proportionately by all taxing subdivisions that were included on the same notice based on the total property tax levied by each taxing subdivision. Payment of such costs shall be due to the county clerk by December 31.

(g) The provisions of this section shall take effect and be in force from and after January 1, 2021.

Sec. 12. K.S.A. 79-1801, as amended by section 3 of 2021 Senate Bill No. 13, is hereby amended to read as follows: 79-1801. (a) Except as provided by subsection (b), each year the governing body of any city, the trustees of any township, the board of education of any school district and the governing bodies of all other taxing subdivisions shall certify, on or before August 25, to the proper county clerk the amount of ad valorem tax to be levied. Thereupon, the county clerk shall place the tax upon the tax roll of the county, in the manner prescribed by law, and the tax shall be collected by the county treasurer. The county treasurer shall distribute the proceeds of the taxes levied by each taxing subdivision in the manner provided by K.S.A. 12-1678a, and amendments thereto.

(b) Prior to January 1, 2021, if the governing body of a city or county must conduct an election for an increase in property tax to fund any appropriation or budget under K.S.A. 2020 Supp. 25-433a, and amendments thereto, the governing body of the city or county shall certify, on or before October 1, to the proper county clerk the amount of ad valorem tax to be levied. On and after January 1, 2021, if the governing body of a taxing subdivision must conduct a public hearing to approve exceeding the revenue neutral rate under section 1, and amendments thereto, the governing body of the taxing subdivision shall certify, on or before ~~September 20~~ *October 1*, to the proper county clerk the amount of ad valorem tax to be levied.

Sec. 13. K.S.A. 72-5137, 74-2426, 74-2433, 74-2433f, 79-505, 79-1448, 79-1609, 79-1801, as amended by section 3 of 2021 Senate Bill No. 13, and 79-2005 and K.S.A. 2020 Supp. 19-430 and 19-432 and section 1 of 2021 Senate Bill No. 13 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 19, 2021.

CHAPTER 59

HOUSE BILL No. 2254

AN ACT concerning funeral preparations; relating to prearranged funeral agreements; increasing the monetary cap on irrevocable agreements; relating to preparation of bodies for a funeral or cremation; removing the requirement to provide a permit to cremate in certain circumstances; authorizing electronic permits to cremate; amending K.S.A. 65-1762 and 65-2426a and K.S.A. 2020 Supp. 16-303 and repealing the existing sections; also repealing K.S.A. 65-2429.

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

Section 1. K.S.A. 2020 Supp. 16-303 is hereby amended to read as follows: 16-303. (a) Except as authorized by K.S.A. 16-308, and amendments thereto, all payments made under such agreement, contract or plan, and any earnings or interest thereon, shall remain with such bank, credit union or savings and loan association until the death of the person for whose service the funds were paid or, except as provided in subsection (c), until demand for payment is made by the purchaser of the merchandise or services to the bank, credit union or savings and loan association, and upon such payment to the purchaser, the contract shall terminate.

(b) At the option of a purchaser, any installment contract may provide for additional payments by the purchaser for the cost of group credit life insurance at such rate as is approved ~~from time to time~~ by the *commissioner of* insurance ~~commissioner~~. In the event of the death of the purchaser, the proceeds shall be treated as funds in accordance with K.S.A. 16-304, and amendments thereto.

(c) At the option of the purchaser, such agreement, contract or plan may be made irrevocable ~~as to the retail price of a casket, urn and outside burial container and as to the first $7,000 of funds paid~~ *as to the retail price of a casket, urn and outside burial container and on and after July 1, 2021, as to the first $10,000 of funds paid* and set aside at the direction of the purchaser. *On July 1, 2022, and each July 1 thereafter, such amount shall be increased in 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.* Any interest and earnings accumulated under the agreement, contract or plan may also be irrevocable. ~~This~~ *Such* option shall not prohibit the purchaser ~~to designate~~ *from designating* a different funeral home at any time prior to death~~,~~ after written notice to the current funeral home, and, upon such notification, all documents and funds shall be transferred as necessary.

Sec. 2. K.S.A. 65-1762 is hereby amended to read as follows: 65-1762. (a) The licensed crematory operator in charge shall supervise the licensed crematory on a full-time or a part-time basis and perform such other du-

ties relating to the supervision of a licensed crematory as prescribed by the board by rules and regulations. The crematory operator in charge of a licensed crematory ~~must~~ *shall* hold a Kansas crematory operator's license. Additionally, a crematory operator in charge ~~must~~ *shall* hold a funeral director's license unless the crematory only receives dead human bodies for cremation through licensed funeral establishments or branch funeral establishments.

(b) Only licensed crematory operators may perform cremation.

(c) No crematory operator or crematory operator in charge shall cremate or cause to be cremated any dead human body until it has received:

(1) A cremation authorization form signed by an authorizing agent. The written authorization shall include:

(A) The identity of the dead human body and the time and date of death;

(B) the name of the funeral director or assistant funeral director and the funeral establishment or branch establishment, or the authorizing agent, that obtained the cremation authorization;

(C) notification as to whether the cause of death occurred from a disease declared by the department of health and environment to be infectious, contagious, communicable or dangerous to the public health;

(D) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;

(E) authorization for the crematory to cremate the dead human body;

(F) a representation that the dead human body does not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation;

(G) the name of the person authorized to receive the cremated remains from the crematory; and

(H) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form~~.~~*; and*

(2) a completed and executed coroner's permit to cremate, ~~as is provided in~~ *if required by* K.S.A. 65-2426a, and amendments thereto, indicating that the dead human body is to be cremated.

Sec. 3. K.S.A. 65-2426a is hereby amended to read as follows: 65-2426a. *(a) (1)* No dead body, as ~~such term is~~ defined in ~~subsection (f) of~~ K.S.A. 65-2401, and amendments thereto, shall be cremated unless a coroner's permit to cremate has been ~~furnished~~ *executed* to authorize such cremation*, if the death or cause of death occurred within the state of Kansas or in a state where such permit to cremate is required*.

(2) A telefacsimile *or electronic* signed copy of the coroner's permit to cremate ~~which~~ *that* authorizes the cremation shall constitute legal authorization for such cremation under this section.

(b) The provisions of this section shall be ~~construed as~~ *a part of and* supplemental to ~~and as a part of~~ the uniform vital statistics act.

(c) Any person who knowingly violates this section, upon conviction, shall be fined not more than $500.

Sec. 4. K.S.A. 65-1762, 65-2426a and 65-2429 and K.S.A. 2020 Supp. 16-303 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, 2021.

CHAPTER 60

HOUSE BILL No. 2203

AN ACT concerning the Kansas asbestos control program; creating the asbestos remediation fund, fees and purposes; amending K.S.A. 65-5309 and repealing the existing section.

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

New Section 1. (a) There is hereby established in the state treasury the asbestos remediation fund.

(1) The secretary of health and environment shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys collected or received by the secretary from the following sources:

(A) Permit and approval fees collected under K.S.A. 65-5309, and amendments thereto;

(B) any moneys recovered by the state under the provisions of this act, including administrative expenses and moneys paid under any agreement, stipulation or settlement; and

(C) interest attributable to investment of moneys in the fund.

(2) Upon receipt of each remittance pursuant to paragraph (1), the state treasurer shall deposit the entire amount in the state treasury to the credit of the asbestos remediation fund.

(b) Moneys deposited in the fund shall be expended only for the purpose of administering the Kansas asbestos control act, including funding of a technical and environmental compliance assistance program, and for no other governmental purposes.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the asbestos remediation fund interest earnings based on the:

(1) Average daily balance of moneys in the asbestos remediation fund for the preceding month; and

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

(d) All expenditures from the asbestos remediation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this section.

Sec. 2. K.S.A. 65-5309 is hereby amended to read as follows: 65-5309. (a) The secretary shall establish by rules and regulations a reasonable schedule of fees for licensure and for project evaluations under this act. The fee schedule shall be established on the basis of determination by the secretary of the amount of revenue required for administration of the provisions of this act.

(b) The secretary shall remit all moneys received from the fees established pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general~~ *asbestos remediation* fund.

Sec. 3. K.S.A. 65-5309 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 21, 2021.

CHAPTER 61

HOUSE BILL No. 2391
(Amended by Chapter 113)

AN ACT concerning the secretary of state; relating to duties and responsibilities thereof; providing for biennial filing of business reports; changing business filing provisions and requirements related to business names and electronic signatures; removing certain exemptions from the open records act for certain business tax records no longer required to be filed; UCC filings with improperly included social security numbers; other filing or information requirements; filing fees; repealing certain obsolete statutes including relating to blanket music licenses; publication and distribution of session laws, the Kansas register, proposed amendments to the constitution of the state of Kansas and Kansas administrative rules and regulations; permitting use of printing and binding services from the commercial market; amending K.S.A. 17-1513, 17-1618, 17-2037, 17-2711, 17-4677, 17-5902, 17-7509, 17-7511, 45-106, 45-315, 53-601, 56-1a151, 56-1a605, 56a-101, 64-103, 75-430, 75-433, 75-436, 75-446, 75-1005, 75-3520, 77-138, 77-417, 77-430, 77-430a, 77-431 and 77-438 and K.S.A. 2020 Supp. 17-2036, 17-2718, 17-4634, 17-6014, 17-6014, as amended by section 10 of this act, 17-7002, 17-7503, 17-7504, 17-7505, 17-7506, 17-7510, 17-7512, 17-76,136, 17-76,139, 17-76,146, 17-76,147, 17-78-601, 17-7903, 17-7904, 17-7905, 17-7906, 17-7910, 17-7910, as amended by section 31 of this act, 17-7936, 45-107, 45-229, 56-1a606, 56-1a607, 56a-1001, 56a-1201 and 56a-1202 and repealing the existing sections; also repealing K.S.A. 17-7507, 57-205, 57-206, 57-207 and 75-447.

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

New Section 1. Notwithstanding the provisions of K.S.A. 75-1005(a), and amendments thereto, for the purpose of fulfilling public printing and binding requirements provided by law, the secretary of state may utilize the printing or binding services of the division of printing or, in the discretion of the secretary of state, may acquire printing or binding services in accordance with the purchasing and procurement laws applicable to state agencies.

Sec. 2. On and after January 1, 2023, K.S.A. 17-1513 is hereby amended to read as follows: 17-1513. Each corporation organized under the provisions of this act shall make ~~an annual~~ *a written business entity information* report to the secretary of state, and pay the ~~annual report~~ *required* fee, as prescribed by K.S.A. 17-7503, and amendments thereto.

Sec. 3. On and after January 1, 2023, K.S.A. 17-1618 is hereby amended to read as follows: 17-1618. Each association formed under this act~~, or acts amendatory thereto,~~ shall prepare and make ~~an annual~~ *a written business entity information* report to the secretary of state, and pay the ~~annual report~~ *required* fee, as prescribed by K.S.A. 17-7504, and amendments thereto~~, except that the report shall be filed at the time prescribed by law for filing the association's annual Kansas income tax return~~.

Sec. 4. On and after January 1, 2023, K.S.A. 2020 Supp. 17-2036 is hereby amended to read as follows: 17-2036. (a) Every business trust shall make ~~an annual~~ *a written business entity information* report ~~in writing~~

to the secretary of state, stating the prescribed information concerning the business trust at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The ~~reports~~ *report* shall be made on forms provided by the secretary of state and shall be filed *biennially, as determined by the year that the business trust filed its formation documents. A business trust that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A business trust that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the business trust's tax period but not later than* at the time prescribed by law for filing the business trust's annual Kansas income tax return.

(c) The report shall be signed by a trustee or other authorized officer under penalty of perjury and contain the following:

(1) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, ~~which~~ *that* have been adopted and have not theretofore been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed therein for each such amendment; and

(2) a verified list of the names and addresses of its trustees as of the end of ~~its tax period~~ *each of such business trust's tax periods included in the report*.

~~(b)~~*(d)* (1) At the time of filing ~~its annual~~ *the business entity information* report, the business trust shall pay to the secretary of state ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

(2) The failure of any domestic or foreign business trust to file its ~~annual~~ *business entity information* report and pay ~~its annual report~~ *the required* fee within 90 days from the date on which ~~they~~ *such report and fee* are due~~, as described in subsection (a)~~, or, in the case of ~~an annual~~ *a* report filing and fee received by mail, postmarked within 90 days from the date on which ~~they~~ *such report and fee* are due~~, as described in subsection (a)~~, shall work a forfeiture of ~~its~~ *such business trust's* authority to transact business in this state and all of the remedies, procedures and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation ~~which~~ *that* fails to file its ~~annual~~ *business entity information* report or pay ~~its annual report~~ *the required* fee within 90 days after ~~they~~ *such report and fee* are due, shall be applicable to such business trust.

~~(c)~~*(e) (1)* All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order and ~~subsection (d)~~ *paragraph (2)*. All copies of such applications shall be preserved for one year and until the secretary of state orders that the copies are to be destroyed.

~~(d)~~*(2)* A copy of such application shall be open to inspection by or disclosure to any person designated by resolution of the trustees of the business trust.

Sec. 5. On and after January 1, 2023, K.S.A. 17-2037 is hereby amended to read as follows: 17-2037. *(a)* Any business trust, domestic or foreign, ~~which~~ *that* has obtained authority under this act to transact business in Kansas may surrender its authority at any time by*:*

(1) Filing in the office of the secretary of state a certified copy of a resolution duly adopted by its trustees declaring its intention to withdraw~~, accompanied by~~*;*

(2) paying a withdrawal fee of $20 *at the time the resolution is filed*; and

(3) filing all ~~annual~~ *business entity information* reports and paying all ~~annual report~~ fees required by K.S.A. 17-2036, and amendments thereto, ~~and~~ *that such business trust has* not previously filed and paid.

(b) During a period of five years following the effective date of such withdrawal the business trust shall nevertheless be entitled to convey and dispose of its property and assets in this state, settle and close out its business in this state, and perform any other act or acts pertinent to the liquidation of its business, property, and assets in this state, and to prosecute and defend all suits filed prior to the expiration of such five-year period involving causes of action arising prior to the effective date of such withdrawal or arising out of any act or transaction occurring during such five-year period in the course of the liquidation of its business, property or assets.

(c) The withdrawal of a business trust as provided in this section shall have no effect upon any suit filed by or against it prior to the expiration of such five-year period until such suit has been finally determined or otherwise finally concluded and all judgments, orders and decrees entered therein have been fully executed, even though such final determination, conclusion, or execution occurs after the expiration of such five-year period. With respect to a foreign business trust, withdrawal pursuant to this section shall not affect its written consent to be sued in the courts of this state, or the jurisdiction over such foreign business trust of the courts of this state, with respect to any cause of action which arose prior to the effective date of its withdrawal.

Sec. 6. K.S.A. 17-2711 is hereby amended to read as follows: 17-2711. The corporate name of a corporation organized and operating hereunder may be any name not contrary to law or the ethics of the profession involved. Such name may include any name set forth in K.S.A. 17-6002, *and amendments thereto,* but in all cases the corporate name shall end with the word "chartered" or "professional association" or the abbreviation "P.A." *or "PA". The abbreviations "P.A." and "PA" shall be considered to be identical.*

Sec. 7. On and after January 1, 2023, K.S.A. 2020 Supp. 17-2718 is hereby amended to read as follows: 17-2718. (a) Each professional corporation organized under the laws of this state shall file with the secretary of state ~~an annual~~ *a written business entity information* report ~~in writing~~ stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed *biennially, as determined by the year that the professional corporation filed its formation documents. A professional corporation that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A professional corporation that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the professional corporation's tax period but not later than* at the time prescribed by law for filing the corporation's annual Kansas income tax return.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The names and addresses of all officers, directors and shareholders of the professional corporation;

(2) a statement that each officer, director and shareholder is or is not a qualified person as defined in K.S.A. 17-2707, and amendments thereto, and setting forth the date on which any shares of the corporation were no longer owned by a qualified person; and

(3) the amount of capital stock issued.

~~(b)~~*(d)* The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event ~~its~~ *the corporation's* board of directors shall not have been elected. *The official title or position of the individual signing the report shall be designated.* The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation~~; however, the official title or position of the individual signing the report shall be~~

~~designated.~~ ~~This~~ *The* report shall be subscribed by the person as true, under penalty of perjury. Upon request by the regulatory board ~~which~~ *that* licenses the shareholders described in the report, a copy of the ~~annual~~ report shall be forwarded to the regulatory board.

(e) At the time of filing its ~~annual~~ *business entity information* report, each professional corporation shall pay the ~~annual report~~ fee prescribed by K.S.A. 17-7503, and amendments thereto.

Sec. 8. On and after January 1, 2023, K.S.A. 2020 Supp. 17-4634 is hereby amended to read as follows: 17-4634. (a) Every corporation organized under the electric cooperative act of this state shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed ~~on or before~~ *biennially, as determined by the year that the electric cooperative filed its formation documents. An electric cooperative that filed formation documents in an even-numbered year shall file a report in each even-numbered year. An electric cooperative that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the electric cooperative's tax period but not later than* the 15th day of the ~~4th~~ *fourth* month following the close of the tax year of the electric cooperative.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The name of the corporation;

(2) the location of the principal office;

(3) the names and addresses of the president, secretary, treasurer and all directors;

(4) the number of memberships issued; and

(5) the change or changes, if any, in the particulars made since the last ~~annual~~ *business entity information* report.

~~(b)~~*(d)* Such reports shall be signed by the president, vice-president or secretary of the corporation under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing ~~such annual~~ *its business entity information* report, each such corporation shall pay ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

Sec. 9. On and after January 1, 2023, K.S.A. 17-4677 is hereby amended to read as follows: 17-4677. (a) Every cooperative organized under the renewable energy electric generation cooperative act shall make ~~an annu-~~

~~al~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the cooperative at the close of business on the last day of its tax period next preceding the date of filing, but if any such cooperative's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed ~~on or before~~ *biennially, as determined by the year that the renewable energy electric generation cooperative filed its articles of formation documents. A renewable energy electric generation cooperative that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A renewable energy electric generation cooperative that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the electric cooperative's tax period but not later than* the 15th day of the sixth month following the close of the tax year of the electric cooperative.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The name of the cooperative;

(2) the location of the principal office of the cooperative;

(3) the names and addresses of the president, secretary, treasurer and directors of the cooperative;

(4) the number of members of the cooperative; and

(5) the change or changes, if any, in the particulars made since the last ~~annual~~ *business entity information* report.

~~(b)~~*(d)* The ~~annual~~ report shall be dated, signed by the president, vice-president or secretary of the cooperative under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing ~~such annual~~ *its business entity information* report, the cooperative shall pay ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

Sec. 10. On and after January 1, 2023, K.S.A. 17-5902 is hereby amended to read as follows: 17-5902. (a) All corporations and limited partnerships, as defined in K.S.A. 17-5903, and amendments thereto, ~~which~~ *that* hold agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state, and ~~which~~ *that* are required to make ~~annual~~ *written business entity information* reports to the secretary of state shall provide the information required of such corporations and limited partnerships in the ~~annual~~ *business entity information* reports made under K.S.A. 17-7503, 17-7504, 17-7505, 56-1a606 or 56-1a607, and amendments thereto. The information required by this section does not apply to the following:

(1) A tract of land of less than 10 acres;

(2) contiguous tracts of land ~~which~~ *that* in the aggregate are of less than 10 acres; or

(3) state assessed railroad operating property.

(b) Any person who shall knowingly submit, or who through the proper and due exercise of care and diligence should have known that any submission of information and statements required of corporations and limited partnerships subject to the provisions of this section are false or materially misleading, or who fails or refuses to submit such information and statements is guilty of a class A misdemeanor.

(c) The secretary of state shall keep a separate index of all corporations and limited partnerships subject to the provisions of this section.

Sec. 11. K.S.A. 2020 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 amendments thereto,* and K.S.A. 2020 Supp. 17-6014, and amendments thereto, ~~which~~ *that* 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 amendments thereto,* and K.S.A. 2020 Supp. 17-6427, 17-6428, 17-6429 and 17-72a04, 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~~,~~ *and* 17-7511~~ and 17-7514~~*, and amendments thereto,* and K.S.A. 2020 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 K.S.A. 2020 Supp. 17-72a01 through 17-72a09, 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.

Sec. 12. On and after January 1, 2023, K.S.A. 2020 Supp. 17-6014, as amended by section 10 of this act, 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)~~*(c)(4) and (d)(4)*, 17-7504, 17-7505~~(a)(4) and (b)(4)~~*(c)(4) and (d)(4)* and 17-7514(c), and amendments thereto, and K.S.A. 2020 Supp. 17-6014, and amendments thereto, that 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 amendments thereto, and K.S.A. 2020 Supp. 17-6427, 17-6428, 17-6429 and 17-72a04, 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 and 17-7511, and amendments thereto, and K.S.A. 2020 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 K.S.A. 2020 Supp. 17-72a01 through 17-72a09, 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.

Sec. 13. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7002 is hereby amended to read as follows: 17-7002. (a) As used in this section, the term:

(1) "Articles of incorporation" includes the articles of incorporation of a corporation organized under any special act or any law of this state; and

(2) "authority to engage in business" includes the registration of any foreign corporation under K.S.A. 2020 Supp. 17-7931, and amendments thereto.

(b) Any corporation may, at any time before the expiration of the time limited for its existence and any corporation whose articles of incorporation or authority to engage in business has become forfeited or void pursuant to this code and any corporation whose articles of incorporation or authority to engage in business has expired by reason of failure to renew it or whose articles of incorporation or authority to engage in business has been renewed, but, through failure to comply strictly with the provisions of this code, the validity of whose renewal has been brought into question, at any time procure an extension, renewal or reinstatement of its articles of incorporation, if a domestic corporation, or its authority to engage in business, if a foreign corporation, together with all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities ~~which~~ *that* had been secured or imposed by its original articles of incorporation, and all amendments thereto, or by its authority to engage in business, as the case may be, by complying with the requirements of this section.

(c) The extension, renewal or reinstatement of the articles of incorporation or authority to engage in business may be procured by executing and filing a certificate in accordance with K.S.A. 2020 Supp. 17-7908 through 17-7910, and amendments thereto.

(d) The certificate required by subsection (c) shall state:

(1) The name of the corporation, which shall be the existing name of the corporation or the name it bore when its articles of incorporation or authority to engage in business expired, except as provided in subsection (f) ~~and the date of filing of its original articles of incorporation with the secretary of state~~;

(2) the address of the corporation's registered office in this state, which shall be stated in accordance with K.S.A. 2020 Supp. 17-7924(c), and amendments thereto, and the name of its resident agent at such address;

(3) whether or not the renewal, or reinstatement is to be perpetual and, if not perpetual, the time for which the renewal or reinstatement is to continue and, in case of renewal before the expiration of the time limited for its existence, the date when the renewal is to commence, which shall be prior to the date of the expiration of the old articles of incorporation or authority to engage in business which it is desired to renew;

(4) that the corporation desiring to be renewed or reinstated and so renewing or reinstating its corporate existence was duly organized under the laws of the state of its original incorporation;

(5) the date when the articles of incorporation or the authority to engage in business would expire, if such is the case, or such other facts as may show that the articles of incorporation or the authority to engage in business has become forfeited or void pursuant to this code, or that the validity of any renewal has been brought into question; and

(6) that the certificate for reinstatement is filed by authority of those who were directors or members of the governing body of the corporation at the time its articles of incorporation or the authority to engage in business expired, or who were elected directors or members of the governing body of the corporation as provided in subsection (h).

(e) Upon the filing of the certificate in accordance with K.S.A. 2020 Supp. 17-7908 through 17-7910, and amendments thereto, the corporation shall be renewed or reinstated with the same force and effect as if its articles of incorporation or authority to engage in business had not been forfeited or void pursuant to this code or had not expired by limitation. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed within the scope of its articles of incorporation or authority to engage in business by the corporation, its officers and agents during the time when its articles of incorporation or authority to engage in business was forfeited or void pursuant to this code, or after their expiration by limitation, with the same force and effect and to all intents and purposes as if the articles of incorporation had at all times remained in full force and effect. All real and personal property, rights and credits, which belonged to the corporation at the time its articles of incorporation or authority to engage in business became forfeited or void pursuant to this code, or expired by limitation and which were not disposed of prior to the time of its renewal or reinstatement shall be vested in the corporation after its renewal or reinstatement, as fully and amply as they were held by the corporation at and before the time its articles of incorporation or authority to engage in business became forfeited or void pursuant to this code, or expired by limitation, and the corporation after its renewal or reinstatement shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its officers and agents prior to its reinstatement, as if its articles of incorporation or authority to engage in business had at all times remained in full force and effect.

(f) If, since the articles of incorporation became forfeited or void pursuant to this code, or expired by limitation, any other corporation organized under the laws of this state shall have adopted the same name as the corporation sought to be renewed or reinstated or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or reinstated, or any foreign corporation registered in accordance with K.S.A. 2020 Supp. 17-7931, and amendments thereto, shall have adopted the same name as the corporation sought to be renewed or reinstated, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or reinstated, then in such case the corporation to be renewed or reinstated shall not be renewed under the same name which it bore

when its articles of incorporation became forfeited or void pursuant to this code or expired, but shall adopt or be renewed under some other name; and in such case the certificate to be filed under the provisions of this section shall set forth the name borne by the corporation at the time its articles of incorporation became forfeited or void pursuant to this code, or expired and the new name under which the corporation is to be renewed or reinstated.

(g) Any corporation that renews or reinstates its articles of incorporation or authority to engage in business under this code shall file all ~~annual~~ *past due business entity information* reports *for the immediately preceding 10 years* and pay to the secretary of state an amount equal to all fees and any penalties thereon due. Nonprofit corporations shall file only the ~~annual~~ *business entity information* reports for the ~~three~~ most recent reporting ~~periods~~ *period*~~, but shall~~ *and* pay *to the secretary of state an amount equal to* all fees due.

(h) If a sufficient number of the last acting officers of any corporation desiring to renew or reinstate its articles of incorporation are not available by reason of death, unknown address or refusal or neglect to act, the directors of the corporation or those remaining on the board, even if only one, may elect successors to such officers. In any case where there shall be no directors of the corporation available for the purposes aforesaid, the stockholders may elect a full board of directors, as provided by the bylaws of the corporation, and the board shall then elect such officers as are provided by law, by the articles of incorporation or by the bylaws to carry on the business and affairs of the corporation. A special meeting of the stockholders for the purposes of electing directors may be called by any officer, director or stockholder upon notice given in accordance with K.S.A. 17-6512, and amendments thereto.

(i) After a reinstatement of the articles of incorporation of the corporation shall have been effected, the provisions of K.S.A. 17-6501(c), and amendments thereto, shall govern and the period of time the articles of incorporation of the corporation was forfeited pursuant to this code, or after its expiration by limitation, shall be included within the calculation of the 30-day and 13-month periods to which K.S.A. 17-6501(c), and amendments thereto, refers. A special meeting of stockholders held in accordance with subsection (h) shall be deemed an annual meeting of the stockholders for purposes of K.S.A. 17-6501(c), and amendments thereto.

(j) Whenever it shall be desired to renew or reinstate the articles of incorporation or authority to engage in business of any nonstock corporation, the governing body shall perform all the acts necessary for the renewal or reinstatement of the articles of incorporation of the corporation or its authority to engage in business which are performed by the board of directors in the case of a corporation having capital stock, and

the members of any nonstock corporation who are entitled to vote for the election of members of its governing body and any other members entitled to vote for dissolution under the articles of incorporation or bylaws of such corporation, shall perform all the acts necessary for the renewal or reinstatement of the articles of incorporation of the corporation or its authority to engage in business which are performed by the stockholders in the case of a corporation having capital stock. In all other respects, the procedure for the renewal or reinstatement of the articles of incorporation or authority to engage in business of a nonstock corporation shall conform, as nearly as may be applicable, to the procedure prescribed in this section for the renewal or revival of the articles of incorporation of a corporation having capital stock, except that subsection (i) shall not apply to nonstock corporations.

Sec. 14. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7503 is hereby amended to read as follows: 17-7503. (a) Every domestic corporation organized for profit shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The ~~reports~~ *report* shall be made on forms prescribed by the secretary of state~~. The report~~ *and* shall be filed *biennially, as determined by the year that the domestic corporation filed its formation documents. A domestic corporation that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A domestic corporation that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than* at the time prescribed by law for filing the corporation's annual Kansas income tax return.

(c) The report shall contain the following information:

(1) The name of the corporation;

(2) the location of the principal office;

(3) the names and addresses of the president, secretary, treasurer or equivalent of such officers and members of the board of directors;

(4) the number of shares of capital stock issued;

(5) the nature and kind of business in which the corporation is engaged; and

(6) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

~~(b)~~*(d)* Every corporation subject to the provisions of this section ~~which~~ *that* holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

~~(c)~~*(e)* The report shall be executed in accordance with the provisions of K.S.A. 2020 Supp. 17-7908 through 17-7910, and amendments thereto. *The official title or position of the individual signing the report shall be designated.* The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation~~; however, the official title or position of the individual signing the report shall be designated~~. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing ~~such annual~~ *its business entity information* report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

Sec. 15. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The ~~reports~~ *report* shall be made on forms prescribed by the secretary of state~~. The report~~ *and* shall be filed *biennially, as determined by the year that the corporation organized not for profit filed its formation documents. A corporation organized not for profit that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A corporation organized not for profit that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than* on the 15th day of the sixth month following the close of the taxable year.

(c) The report shall contain the following information:

(1) The name of the corporation;

(2) the location of the principal office;

(3) the names and addresses of the president, secretary and treasurer or equivalent of such officers, and the members of the governing body;

(4) the number of memberships or the number of shares of capital stock issued; and

(5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

~~(b)~~*(d)* Every corporation subject to the provisions of this section ~~which~~ *that* holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders or members of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

~~(c)~~*(e)* The report shall be executed in accordance with the provisions of K.S.A. 2020 Supp. 17-7908 through 17-7910, and amendments thereto.

The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation~~; however, the official title or position of the individual signing the report shall be designated~~. This report shall be subscribed by the person as true, under penalty of perjury.

~~(d)~~*(f)* At the time of filing ~~such~~ *its business entity information* report, each nonprofit corporation shall pay ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary* ~~for all tax years commencing after December 31, 2003~~ *multiplied by the number of tax periods included in the report*.

Sec. 16. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to December 31 of the year commencing such fiscal year.

(b) The report shall be made on a form prescribed by the secretary of state~~. The report~~ *and* shall be filed *biennially, as determined by the year that the foreign corporation filed its foreign corporation application in Kansas. A foreign corporation that filed an application in an even-numbered year shall file a report in each even-numbered year. A foreign corporation that filed an application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than* at the time prescribed by law for filing the corporation's annual Kansas income tax return.

(c) The report shall contain the following ~~facts~~ *information*:

(1) The name of the corporation and under the laws of what state or country it is incorporated;

(2) the location of its principal office;

(3) the names and addresses of the president, secretary, treasurer, or equivalent of such officers, and members of the board of directors;

(4) the number of shares of capital stock issued;

(5) the nature and kind of business in which the company is engaged; and

(6) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

~~(b)~~*(d)* Every corporation subject to the provisions of this section ~~which~~ *that* holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

~~(c)~~*(e)* The report shall be executed in accordance with the provisions of K.S.A. 2020 Supp. 17-7908 through 17-7910, and amendments thereto. *The official title or position of the individual signing the report shall be designated.* The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation~~; however, the official title or position of the individual signing the report shall be designated~~. This report shall be subscribed by the person as true, under penalty of perjury.

~~(d)~~*(f)* At the time of filing its ~~annual~~ *business entity information* report, each such foreign corporation shall pay to the secretary of state ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

Sec. 17. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7506 is hereby amended to read as follows: 17-7506. (a) The secretary of state shall charge each corporation a fee established pursuant to rules and regulations, but not exceeding $250, for issuing or filing and indexing articles of incorporation of a for-profit or a foreign corporation application.

(b) The secretary of state shall charge each corporation a fee established by rules and regulations, but not exceeding $50, for articles of incorporation of a nonprofit corporation.

(c) The secretary of state shall charge each corporation a fee established by rules and regulations, but not exceeding $150, for issuing or filing and indexing any of the corporate documents described below:

(1) Certificate of extension, restoration, renewal or revival of articles of incorporation;

(2) certificate of amendment of articles of incorporation, either prior to or after payment of capital;

(3) certificate of designation of preferences;

(4) certificate of retirement of preferred stock;

(5) certificate of increase or reduction of capital;

(6) certificate of dissolution, either prior to or after beginning business;

(7) certificate of revocation of voluntary dissolution;

(8) certificate of change of location of registered office and resident agent;

(9) agreement of merger or consolidation;

(10) certificate of ownership and merger;

(11) certificate of extension, restoration, renewal or revival of a certificate of authority of foreign corporation to do business in Kansas;

(12) change of resident agent or amendment by foreign corporation;

(13) certificate of withdrawal of foreign corporation;

(14) certificate of correction of any of the instruments designated in this section;

(15) reservation of corporate name;

(16) restated articles of incorporation;

(17) ~~annual report~~ extension *of a business entity information report*; and

(18) certificate of validation.

(d) The secretary of state shall charge each corporation a fee established pursuant to rules and regulations but not exceeding $50 for issuing certified copies, photocopies, certificates of good standing and certificates of fact; and any other certificate or filing for which a filing or indexing fee is not prescribed by law.

(e) The secretary of state shall not charge fees for providing the following information: Name of the corporation; address of its registered office and the name of its resident agent; the amount of its authorized capital stock; the state of its incorporation; date of filing of articles of incorporation, foreign corporation application or ~~annual~~ *business entity information* report; and date of expiration.

(f) The secretary of state shall prescribe by rules and regulations any fees required by this act.

Sec. 18. On and after January 1, 2023, K.S.A. 17-7509 is hereby amended to read as follows: 17-7509. (a) In case any corporation organized for profit ~~which~~ *that* is required to file ~~an annual~~ *a business entity information* report and pay the ~~annual report~~ *required* fee prescribed by this act shall fail or neglect to make such report at the time prescribed, such corporation shall be subject to a penalty of $75. Such penalty and the ~~annual fee or~~ fees required to be paid by this act may be recovered by an action in the name of the state, and all moneys recovered 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) The penalties provided for in subsection (a) also may be assessed against any corporation for the reason that such corporation has been canceled or its existence forfeited pursuant to the Kansas general corporation code. No penalty shall be charged pursuant to this subsection, if a corporation is assessed penalties pursuant to grounds specified in subsection (a).

Sec. 19. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7510 is hereby amended to read as follows: 17-7510. (a) In addition to any other penalties, the failure of any domestic corporation to file the ~~annual~~ *business entity information* report in accordance with the provisions of this act or to pay the ~~annual report~~ fee provided for within 90 days of the time for filing and paying the same or, in the case of ~~an annual~~ *a* report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same, shall work the forfeiture of the articles of incorporation of such domestic corporation. Within 60 days after the date such ~~annual~~ *business entity information* report and fee are due, the secretary of state, by mail, shall notify any corporation that has failed to submit such report and fee when due that its articles of incorporation shall be forfeited unless the ~~annual~~ *business entity information* report is filed and the fee is paid within 90 days from the date such report and fee were due. Any corporation that fails to submit such report and fee within such time shall forfeit its articles of incorporation, and the secretary of state shall notify the attorney general that the articles of incorporation of such corporation have been forfeited.

(b) In addition to any other penalties, the failure of any foreign corporation to file the ~~annual~~ *business entity information* report or pay the ~~annual report~~ fee prescribed by this act within 90 days from the time provided for filing and paying the same or, in the case of ~~an annual~~ *a* report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same, shall work a forfeiture of its right or authority to do business in this state. Within 60 days after the date such ~~annual~~ *business entity information* report and fee are due, the secretary

of state, by mail, shall notify any corporation that has failed to submit such report and fee when due that its authority to do business in this state shall be forfeited unless the ~~annual~~ *business entity information* report and fee is paid within 90 days from the date such report and fee were due. Any corporation that fails to submit such report and fees within such time shall forfeit its authority to do business in this state, and the secretary of state shall publish a notice of such forfeiture in the Kansas register.

(c) This section shall not be construed to restrict the state from invoking any other remedies provided by law.

(d) The secretary of state shall not issue certificates of good standing for any corporation that has failed to file its ~~annual~~ *business entity information* report or pay ~~its annual report~~ *the required* fee.

Sec. 20. On and after January 1, 2023, K.S.A. 17-7511 is hereby amended to read as follows: 17-7511. Pursuant to the authority granted by ~~subsection (c) of~~ K.S.A. 79-3234*(c)*, the secretary of state, as a legal representative of the state, may inspect the annual Kansas income tax ~~return~~ *returns* of any corporation for the purpose of verifying any information contained in the ~~annual~~ *business entity information* report filed by such corporation with the secretary of state pursuant to this act. The secretary of state shall not disclose any information obtained from any such ~~return~~ *returns*, except as may be necessary to commence an appropriate administrative or judicial proceeding against the corporation filing the same, and shall disclose to the secretary of revenue any information and allow the secretary to inspect as necessary the ~~annual~~ *business entity information* report for purposes of verifying any information contained on the franchise tax ~~return~~ *returns* as provided in K.S.A. 79-5401, and amendments thereto.

Sec. 21. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7512 is hereby amended to read as follows: 17-7512. The provisions of this act relating to the filing of ~~annual~~ *business entity information* reports and the payment of ~~annual report~~ fees shall not apply to banking, insurance or savings and loan corporations, credit unions, any firemen's relief association under the jurisdiction and supervision of the insurance commissioner or to Kansas venture capital, inc. or venture capital companies certified by the secretary of commerce pursuant to article 83 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 22. On and after January 1, 2023, K.S.A. 2020 Supp. 17-76,136 is hereby amended to read as follows: 17-76,136. (a) The secretary of state shall charge each domestic and foreign limited liability company the following fees:

(1) A fee of $20 for issuing or filing and indexing any of the following documents:

(A) A certificate of amendment of articles of organization;

(B) restated articles of organization;

(C) a certificate of cancellation, which fee shall be multiplied by the number of series of the limited liability company named in the certificate of cancellation;

(D) a certificate of change of location of registered office or resident agent;

(E) a certificate of merger or consolidation;

(F) a certificate of division; and

(G) any certificate, affidavit, agreement or any other paper provided for in the Kansas revised limited liability company act, for which no different fee is specifically prescribed;

(2) a fee of $7.50 for each certified copy plus a fee per page, if the secretary of state supplies the copies, in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto;

(3) a fee of $7.50 for each certificate of good standing, including a certificate of good standing for a series of a limited liability company, and certificate of fact issued by the secretary of state;

(4) a fee of $5 for a report of record search, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: Name of the limited liability company and the address of its registered office; name and address of the resident agent; the state of the limited liability company's formation; the date of filing of its articles of organization or ~~annual report~~ *business entity information report*; and date of expiration; and

(5) for photocopies of instruments on file or prepared by the secretary of state's office and which are not certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto.

(b) Every limited liability company hereafter formed in this state shall pay to the secretary of state, at the time of filing its articles of organization, an application and recording fee of $150.

(c) At the time of filing its application to do business, every foreign limited liability company shall pay to the secretary of state an application and recording fee of $150.

(d) The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 23. On and after January 1, 2023, K.S.A. 2020 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized and on and after July 1, 2020, each series thereof

formed or in existence under the laws of this state shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the limited liability company or series, as applicable, at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's or series' tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The ~~annual~~ report shall be filed *biennially, as determined by the year that the limited liability company or series filed its formation documents. A limited liability company or series that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A limited liability company or series that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. It is permissible to file at one time the biennial report information for more than one limited liability company or series, regardless of whether the formation documents were filed in an even-numbered or odd-numbered year, provided that all the reports shall be filed in the first year a biennial report is due under this law and in odd-numbered years thereafter. The report shall be filed after the close of the limited liability company's tax period or series' tax period but not later than* at the time prescribed by law for filing the limited liability company's or series' annual Kansas income tax return, or if applicable law does not prescribe a time for filing an annual Kansas income tax return for a series, the ~~annual~~ report for the series shall be filed at, and for purposes of this section its tax period shall be deemed to be, the time prescribed by law for filing the annual Kansas income tax return for the limited liability company to which the series is associated.

(c) The ~~annual~~ report shall be made on a form prescribed by the secretary of state~~. The report~~ *and* shall contain the following information *for each limited liability company or series*:

(1) The name of the limited liability company or series, as applicable; and

(2) a list of the members owning at least 5% of the capital of the limited liability company or series, as applicable, with the post office address of each.

~~(b)~~*(d) (1)* Every foreign limited liability company shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(2) The ~~annual~~ report shall be filed *biennially, as determined by the year that the foreign limited liability company filed its foreign limited liability company application. A foreign limited liability company that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited liability company that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the foreign limited liability company's tax period but not later than* at the time prescribed by law for filing the limited liability company's annual Kansas income tax return.

(3) The ~~annual~~ report shall be made on a form prescribed by the secretary of state~~. The report~~ *and* shall contain the name of the limited liability company.

~~(e)~~*(e)* The ~~annual~~ *business entity information* report required by this section shall be executed by one or more authorized persons, and filed with the secretary of state. The execution of such ~~annual~~ report by a person who is authorized by the Kansas revised limited liability company act to execute such ~~annual~~ report, upon filing such ~~annual~~ report with the secretary of state, constitutes an oath or affirmation, under penalties of perjury that, to the best of such person's knowledge and belief, the facts stated therein are true.

(f) At the time of filing the *business entity information* report, ~~the~~ *each* limited liability company or series shall pay to the secretary of state ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

~~(d)~~*(g)* The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file ~~an annual~~ *business entity information* report or pay the required ~~annual report~~ fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file ~~an annual~~ *business entity information* report or pay the required ~~annual report~~ fee, shall be applicable to the articles of organization of any domestic limited liability company, the certificate of designation of any series thereof, or to the authority of any foreign limited liability company which fails to file its ~~annual~~ *business entity information* report or pay the ~~annual report~~ fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of ~~an annual~~ *a* report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same. Whenever the articles of organization of a domestic limited liability company, the certificate of designation of a series thereof, or the authority of any foreign limited liability company are forfeited or canceled for failure to file ~~an annual~~ *business entity information* report or to pay the required ~~annual report~~ fee, the domestic limited liability company or the authority of a foreign

limited liability company may be reinstated by filing a certificate of reinstatement, pursuant to K.S.A. 2020 Supp. 17-76,146, and amendments thereto, and the certificate of designation may be reinstated by filing a certificate of reinstatement, pursuant to K.S.A. 2020 Supp. 17-76,147, and amendments thereto, and in each case, paying to the secretary of state all fees, including any penalties thereon, due to the state.

~~(e) No limited liability company or series shall be required to file its first annual report under the Kansas revised limited liability company act, or pay any annual report fee required to accompany such report, unless such limited liability company has filed its articles of organization or application for authority or the certificate of designation of such series has been filed at least six months prior to the last day of its tax period.~~

~~(f)~~*(h)* All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order, or subsection (g). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

~~(g)~~*(i)* A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company or series during any part of the period covered by the extension.

Sec. 24. On and after January 1, 2023, K.S.A. 2020 Supp. 17-76,146 is hereby amended to read as follows: 17-76,146. (a) A domestic limited liability company whose articles of organization or a foreign limited liability company whose authority to do business has been canceled or forfeited pursuant to K.S.A. 2020 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto, or whose articles of organization or authority to do business has been forfeited pursuant to K.S.A. 17-76,139(d), and amendments thereto, may be reinstated by filing with the secretary of state a certificate of reinstatement accompanied by the payment of the fee required by K.S.A. 17-76,136(d), and amendments thereto, and payment of the ~~annual~~ *business entity information* report fees due under K.S.A. 17-76,139(c), and amendments thereto, ~~and all penalties and interest thereon due at the time of the cancellation or forfeiture of its articles of organization or authority to do business~~ *for all past due reports for the immediately preceding 10 years, and payment to the secretary of state an amount equal to all fees and any penalties due*. The certificate of reinstatement shall set forth:

(1) The name of the limited liability company at the time its articles of organization or authority to do business was canceled or forfeited and, if such name is not available at the time of reinstatement, the name under which the limited liability company is to be reinstated;

(2) the address of the limited liability company's registered office in the state of Kansas and the name and address of the limited liability company's resident agent in the state of Kansas;

(3) a statement that the certificate of reinstatement is filed by one or more persons authorized to execute and file the certificate of reinstatement to reinstate the limited liability company; and

(4) any other matters the persons executing the certificate of reinstatement determine to include therein.

(b) The certificate of reinstatement shall be deemed to be an amendment to the articles of organization or application for registration of the limited liability company, and the limited liability company shall not be required to take any further action to amend its articles of organization or application for registration under K.S.A. 17-7674 or K.S.A. 2020 Supp. 17-7935, and amendments thereto, with respect to the matters set forth in the certificate of reinstatement.

(c) Upon the filing of a certificate of reinstatement, a limited liability company and all series thereof that have been formed and whose certificate of designation has not been canceled prior to the cancellation of the articles of organization shall be reinstated with the same force and effect as if its articles of organization or authority to do business had not been canceled or forfeited pursuant to K.S.A. 17-76,139(d) or K.S.A. 2020 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed by the limited liability company, its members, managers, employees and agents during the time when its articles of organization or authority to do business was canceled or forfeited pursuant to K.S.A. 17-76,139(d) or K.S.A. 2020 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto, with the same force and effect and to all intents and purposes as if the articles of organization or authority to do business had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited liability company at the time its articles of organization or authority to do business was canceled or forfeited pursuant to K.S.A. 17-76,139(d) or K.S.A. 2020 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto, or which were acquired by the limited liability company following the cancellation or forfeiture of its articles of organization or authority to do business pursuant to K.S.A. 17-76,139(d) or K.S.A. 2020 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto, and which were not disposed of prior to the time of its reinstatement, shall be vested in the limited liability company after its reinstatement as fully as they were held by the limited liability company at, and after, as the case may be, the time its articles of organization or authority to do business was canceled or forfeited pursuant to K.S.A. 17-76,139(d) or K.S.A. 2020 Supp. 17-7926(b),

17-7929(b) or 17-7934(f), and amendments thereto. After its reinstatement, the limited liability company shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its members, managers, employees and agents prior to its reinstatement as if its articles of organization or authority to do business had at all times remained in full force and effect.

Sec. 25. On and after January 1, 2023, K.S.A. 2020 Supp. 17-76,147 is hereby amended to read as follows: 17-76,147. (a) A series whose certificate of designation has been canceled pursuant to K.S.A. 17-76,139, and amendments thereto, may be reinstated by filing in the office of the secretary of state a certificate of reinstatement accompanied by the payment of the fee required by K.S.A. 17-76,136(d), and amendments thereto, and payment of the ~~annual~~ *business entity information* report fee due under K.S.A. 17-76,139~~(c)~~, and amendments thereto, ~~and all penalties and interest thereon due at the time of the cancellation of its certificate of designation~~ *for all past due reports for the immediately preceding 10 years, and payment to the secretary of state an amount equal to all fees and any penalties due*. The certificate of reinstatement shall set forth:

(1) The name of the limited liability company at the time the certificate of designation was canceled and, if such name has changed, the name of the limited liability company at the time of reinstatement of the series;

(2) the name of the series at the time the certificate of designation was canceled and, if such name is not available at the time of reinstatement, the name under which the series is to be reinstated;

(3) a statement that the certificate of reinstatement is filed by one or more persons authorized to execute and file the certificate of reinstatement to reinstate the series; and

(4) any other matters the persons executing the certificate of reinstatement determine to include therein.

(b) The certificate of reinstatement shall be deemed to be an amendment to the certificate of designation, and no further actions shall be required to amend its certificate of designation under K.S.A. 2020 Supp. 17-76,143(d)(3), and amendments thereto, with respect to the matters set forth in the certificate of reinstatement.

(c) Upon the filing of a certificate of reinstatement, a series shall be reinstated with the same force and effect as if its certificate of designation had not been canceled pursuant to K.S.A. 17-76,139, and amendments thereto. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed by the series, its members, managers, employees and agents during the time when its certificate of designation was canceled pursuant to K.S.A. 17-76,139, and amendments thereto, with the same force and effect and to all intents and purposes as if the certificate of designation had remained in full force and effect. All real

and personal property, and all rights and interests, that belonged to the series at the time its certificate of designation was canceled pursuant to K.S.A. 17-76,139, and amendments thereto, or were acquired by the series following the cancellation of its certificate of designation pursuant to K.S.A. 17-76,139, and amendments thereto, and were not disposed of prior to the time of its reinstatement, shall be vested in the series after its reinstatement as fully as they were held by the series at, and after, as the case may be, the time its certificate of designation was canceled pursuant to K.S.A. 17-76,139, and amendments thereto. After its reinstatement, the series shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its members, managers, employees and agents prior to its reinstatement as if its certificate of designation had at all times remained in full force and effect.

~~(d) This section shall take effect on and after July 1, 2020.~~

Sec. 26. K.S.A. 2020 Supp. 17-78-601 is hereby amended to read as follows: 17-78-601. (a) When any provision of this act requires any instrument to be filed with the secretary of state, such instrument shall be filed in accordance with this section:

(1) The document shall contain the information required by this act;

(2) the document shall be in a record;

(3) the document shall be in the English language, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals;

(4) the document shall be signed:

(A) By an officer of a domestic or foreign corporation;

(B) by a person authorized by a domestic or foreign entity that is not a corporation; or

(C) if the entity is in the hands of a receiver, trustee or other court-appointed fiduciary, by that person;

(5) the instrument shall state the name and capacity of the person that signed it;

(6) any signature on instruments authorized to be filed with the secretary of state under this act may be a facsimile, *an electronic signature*, a conformed signature or an electronically transmitted signature. The execution of any instrument required to be filed with the secretary of state shall constitute an oath or affirmation, under the penalties of perjury, that the facts stated in the instrument are true; and

(7) the instrument shall be delivered to the office of the secretary of state for filing. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state.

(b) When a document is delivered to the office of the secretary of state for filing, the correct filing fee and any tax, fee or penalty required to be paid by this act or other law shall be paid. The secretary of state

shall establish by rule and regulation the filing fees for instruments filed pursuant to this act.

(c) Upon delivery of the instrument and upon tender of the required fees and any taxes:

(1) The secretary of state shall certify that the instrument has been filed in the office of secretary of state by endorsing upon the original signed instrument the word "Filed" and the date and hour of its filing. This endorsement is the "filing date" of the instrument and is conclusive of the date and time of its filing in the absence of actual fraud. The secretary of state shall thereupon record the endorsed instrument in an electronic medium; and

(2) the secretary of state shall return a certified copy of the recorded instrument.

(d) Any instrument filed in accordance with this section shall be effective upon its filing date unless a later effective date, not to exceed 90 days from the date of filing, was specified in the instrument.

(e) If any instrument authorized to be filed with the secretary of state is filed and is inaccurately, defectively or erroneously executed or otherwise defective in any respect, the secretary of state shall not be liable to any person for the preclearance for filing, the acceptance for filing or the filing and indexing such instrument.

(f) Whenever a provision of this act permits any of the terms of an agreement or a filed document to be dependent on facts objectively ascertainable outside the agreement or filed document, the following rules apply:

(1) The manner in which the facts will operate upon the terms of the agreement or filed document must be set forth in the agreement or filed document;

(2) the facts may include, but are not limited to:

(A) Any of the following that is available in a nationally recognized news or information medium either in print or electronically, statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates or similar economic or financial data;

(B) a determination or action by any person or body, including the entity or any other party to an agreement or filed document; or

(C) the terms of, or actions taken under, an agreement to which the entity is a party or any other agreement or document;

(3) in this subsection, "filed document" means a document filed with the secretary of state under this act. The following provisions of an agreement or filed document may not be made dependent on facts outside the agreement or filed document:

(A) The name and address of any person required in a filed document;

(B) the registered office of any entity required in a filed document;

(C) the resident agent of any entity required in a filed document;

(D) the number of authorized shares and designation of each class or series of shares of a corporation;

(E) the effective date of a filed document; and

(F) any required statement in a filed document of the manner in which that approval was given;

(4) if a provision of a filed document is made dependent on a fact ascertainable outside of the filed document and that fact is not ascertainable by reference to a source described in subsection (c)(2)(A) or a document that is a matter of public record, or if the affected interest holders have not received notice of the fact from the entity, the entity shall file with the secretary of state a certificate of amendment setting forth the fact promptly after the fact referred to is first ascertainable or thereafter changes.

Sec. 27. On and after January 1, 2023, K.S.A. 2020 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 K.S.A. 2020 Supp. 17-72a02, and amendments thereto;

(5) certificate of validation as set forth in K.S.A. 2020 Supp. 17-6428, and amendments thereto;

(6) foreign for-profit application for authority as set forth in K.S.A. 2020 Supp. 17-7931~~ and K.S.A. 17-7307 through 17-7510~~, and amendments thereto;

(7) for-profit ~~annual~~ *business entity information* report as set forth in K.S.A. 17-7503 and 17-7505, and amendments thereto;

(8) professional association ~~annual~~ *business entity information* report as set forth in K.S.A. 17-2718, and amendments thereto;

(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;

(10) amendment to professional associations as set forth in K.S.A. 17-2709, and amendments thereto;

(11) foreign for-profit corporation certificate of amendment as set forth in K.S.A. 17-7302, and amendments thereto;

(12) restated articles of incorporation as set forth in K.S.A. 17-6605, and amendments thereto;

(13) change of registered office or resident agent as set forth in K.S.A. 2020 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

(14) for-profit certificate of correction as set forth in K.S.A. 2020 Supp. 17-7912, and amendments thereto;

(15) mergers as set forth in K.S.A. 17-6701 through 17-6708, and amendments thereto;

(16) foreign mergers as set forth in K.S.A. 17-7302, and amendments thereto;

(17) certificate of amendment or termination of merger as set forth in K.S.A. 17-6701, and amendments thereto;

(18) foreign corporation merger as set forth in K.S.A. 17-7302, and amendments thereto;

(19) certificate of reinstatement as set forth in K.S.A. 17-7002, and amendments thereto;

(20) certificate of dissolution prior to commencing business as set forth in K.S.A. 17-6803, and amendments thereto;

(21) certificate of dissolution by stockholder's meeting as set forth in K.S.A. 17-6804, and amendments thereto;

(22) certificate of dissolution by written consent as set forth in K.S.A. 17-6804, and amendments thereto;

(23) foreign certificate of cancellation as set forth in K.S.A. 2020 Supp. 17-7936, and amendments thereto; and

(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. 2020 Supp. 17-7931, and amendments thereto;

(3) not-for-profit ~~annual~~ *business entity information* 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. 2020 Supp. 17-7912, and amendments thereto;

(6) not-for-profit change of registered office or resident agent as set forth in K.S.A. 2020 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. 28. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7904 is hereby amended to read as follows: 17-7904. The following documents related to limited liability companies shall be filed with the secretary of state:

(a) Articles of organization as set forth in K.S.A. 17-7673 and K.S.A. 2020 Supp. 17-7673a, and amendments thereto;

(b) professional articles of organization as set forth in K.S.A. 17-7673 and K.S.A. 2020 Supp. 17-7673a, and amendments thereto;

(c) series limited liability company articles of organization as set forth in K.S.A. 2020 Supp. 17-76,143, and amendments thereto;

(d) foreign limited liability company application for authority as set forth in K.S.A. 2020 Supp. 17-7931, and amendments thereto;

(e) foreign series limited liability company application for admission to transact business as set forth in K.S.A. 2020 Supp. 17-7931 and K.S.A. 2020 Supp. 17-76,143, and amendments thereto;

(f) ~~annual~~*business entity information* report as set forth in K.S.A. 17-76,139, and amendments thereto;

(g) certificate of amendment as set forth in K.S.A. 17-7674 and K.S.A. 2020 Supp. 17-7674a and 17-76,143, and amendments thereto;

(h) restated articles of organization as set forth in K.S.A. 17-7680, and amendments thereto;

(i) series certificate of designation as set forth in K.S.A. 2020 Supp. 17-76,143, and amendments thereto;

(j) certificate of amendment or termination to certificate of merger or consolidation as set forth in K.S.A. 17-7681 or K.S.A. 2020 Supp. 17-76,143a, and amendments thereto;

(k) certificate of correction as set forth in K.S.A. 2020 Supp. 17-7912, and amendments thereto;

(l) foreign certificate of correction as set forth in K.S.A. 2020 Supp. 17-7912, and amendments thereto;

(m) change of registered office or resident agent as set forth in K.S.A. 2020 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

(n) mergers or consolidations as set forth in K.S.A. 17-7681 or K.S.A. 2020 Supp. 17-76,143a, and amendments thereto;

(o) reinstatement as set forth in K.S.A. 17-76,139 or K.S.A. 2020 Supp. 17-76-147, and amendments thereto;

(p) certificate of cancellation as set forth in K.S.A. 17-7675 or K.S.A 2020 Supp. 17-76,143, and amendments thereto;

(q) foreign cancellation of registration as set forth in K.S.A. 2020 Supp. 17-7936, and amendments thereto; and

(r) certificate of division as set forth in K.S.A. 2020 Supp. 17-7685a, and amendments thereto.

Sec. 29. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7905 is hereby amended to read as follows: 17-7905. ~~(a)~~ The following documents related to limited partnerships shall be filed with the secretary of state:

~~(1)~~*(a)* Certificate of limited partnership as set forth in K.S.A. 56-1a151, and amendments thereto;

~~(2)~~*(b)* foreign application for registration as set forth in K.S.A. 2020 Supp. 17-7931, and amendments thereto;

~~(3)~~*(c)* ~~annual~~ *business entity information* report as set forth in K.S.A. 56-1a606 and 56-1a607, and amendments thereto;

~~(4)~~*(d)* amendment to certificate as set forth in K.S.A. 56-1a152, and amendments thereto;

~~(5)~~*(e)* restated certificate as set forth in K.S.A. 56-1a160, and amendments thereto;

~~(6)~~*(f)* change of registered office or resident agent as set forth in K.S.A. 2020 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

~~(7)~~*(g)* foreign certificate of amendment or correction as set forth in K.S.A. 2020 Supp. 17-7912, and amendments thereto;

~~(8)~~*(h)* mergers as set forth in K.S.A. 2020 Supp. 17-78,201 through 17-78,206, and amendments thereto;

~~(9)~~*(i)* reinstatement as set forth in K.S.A. 56-1a606 and 56-1a607, and amendments thereto;

~~(10)~~*(j)* cancellation as set forth in K.S.A. 56-1a153, and amendments thereto; and

~~(11)~~*(k)* foreign cancellation of registration as set forth in K.S.A. 2020 Supp. 17-7936, and amendments thereto.

~~(b) This section shall take effect on and after January 1, 2015.~~

Sec. 30. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7906 is hereby amended to read as follows: 17-7906. ~~(a)~~ The following documents related to limited liability partnerships shall be filed with the secretary of state:

~~(1)~~*(a)* Statement of qualification as set forth in K.S.A. 56a-1001, and amendments thereto;

~~(2)~~*(b)* foreign statement of qualification as set forth in K.S.A. 2020 Supp. 17-7931, and amendments thereto;

~~(3)~~*(c)* ~~annual~~ *business entity information* report as set forth in K.S.A. 56a-1201 and 56a-1202, and amendments thereto;

~~(4)~~*(d)* amendment to statement of qualification as set forth in K.S.A. 56a-105, and amendments thereto;

~~(5)~~*(e)* change of registered office or resident agent as set forth in K.S.A. 2020 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

~~(6)~~*(f)* reinstatement as set forth in K.S.A. 56a-1201, and amendments thereto;

~~(7)~~*(g)* cancellation of statement as set forth in K.S.A. 56a-105, and amendments thereto;

~~(8)~~*(h)* statement of denial as set forth in K.S.A. 56a-304, and amendments thereto;

~~(9)~~*(i)* statement of dissociation as set forth in K.S.A. 56a-704, and amendments thereto;

~~(10)~~*(j)* statement of dissolution as set forth in K.S.A. 56a-105 and 56a-805, and amendments thereto; and

~~(11)~~*(k)* statement of merger as set forth in K.S.A. 56a-907, and amendments thereto.

~~(b) This section shall take effect on and after January 1, 2015.~~

Sec. 31. K.S.A. 2020 Supp. 17-7910 is hereby amended to read as follows: 17-7910. When any document is required by this act to be filed with the secretary of state, such requirement means that:

(a) The original signed document shall be delivered to the office of the secretary of state, where the document shall be recorded in an electronic medium. Any signature on documents authorized to be filed with the secretary of state under the provisions of this act may be a facsimile, a conformed signature*, an electronic signature* or an electronically transmitted signature;

(b) all taxes and fees authorized by law to be collected by the secretary of state in connection with the filing of the document shall be tendered to the secretary of state;

(c) upon delivery of the document, and upon tender of the required taxes and fees, the secretary of state shall, if the secretary of state finds that the document conforms to law, certify that the document has been filed in the office of the secretary of state by endorsing upon the ~~electronically recorded~~ *electronically recorded* document the word "Filed" and the date and hour of its filing. This endorsement is the "filing date" of the document and is conclusive of the date and time of its filing in the absence of actual fraud. The secretary of state shall thereupon record the endorsed document in an electronic medium and that electronic document shall become the original document; and

(d) the secretary of state shall return a certified copy of the recorded document to the person who filed the document or that person's representative, except this provision shall not apply to annual reports.

(e) A person who executes any document required by this act to be filed with the secretary of state, including a person who executes such document as an agent or fiduciary, shall not be required to exhibit evidence of the person's authority as a prerequisite to filing such documents with the secretary of state.

Sec. 32. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7910, as amended by section 31 of this act, is hereby amended to read as follows:

17-7910. When any document is required by this act to be filed with the secretary of state, such requirement means that:

(a) The original signed document shall be delivered to the office of the secretary of state, where the document shall be recorded in an electronic medium. Any signature on documents authorized to be filed with the secretary of state under the provisions of this act may be a facsimile, a conformed signature, an electronic signature or an electronically transmitted signature;

(b) all taxes and fees authorized by law to be collected by the secretary of state in connection with the filing of the document shall be tendered to the secretary of state;

(c) upon delivery of the document, and upon tender of the required taxes and fees, the secretary of state shall, if the secretary of state finds that the document conforms to law, certify that the document has been filed in the office of the secretary of state by endorsing upon the electronically recorded document the word "Filed" and the date and hour of its filing. This endorsement is the "filing date" of the document and is conclusive of the date and time of its filing in the absence of actual fraud. The secretary of state shall thereupon record the endorsed document in an electronic medium and that electronic document shall become the original document; and

(d) the secretary of state shall return a certified copy of the recorded document to the person who filed the document or that person's representative, except this provision shall not apply to ~~annual~~ *business entity information* reports.

(e) A person who executes any document required by this act to be filed with the secretary of state, including a person who executes such document as an agent or fiduciary, shall not be required to exhibit evidence of the person's authority as a prerequisite to filing such documents with the secretary of state.

Sec. 33. On and after January 1, 2023, K.S.A. 2020 Supp. 17-7936 is hereby amended to read as follows: 17-7936. (a) A foreign covered entity may cancel its registration by filing with the secretary of state a certificate of cancellation executed by an authorized person, together with a fee if authorized by law, as provided by K.S.A. 2020 Supp. 17-7910, and amendments thereto, and the ~~annual~~ *business entity information* report and ~~annual report~~ *required* fee ~~for any tax period which has ended~~. The certificate of cancellation shall state that the foreign covered entity surrenders its authority to transact business in the state of Kansas and withdraws therefrom. The certificate of cancellation shall provide the address to which the secretary of state may mail any process against the foreign covered entity that may be served upon the secretary of state. A cancellation does not terminate the authority of the secretary of state to accept

service of process on the foreign covered entity with respect to causes of action arising out of the doing of business in the state of Kansas.

(b) The filing of a certificate of dissolution or certificate of cancellation issued by the proper official of the state or other jurisdiction in which a foreign covered entity is organized shall have the same effect as the filing of a certificate of cancellation as provided for in subsection (a) above.

~~(c) This section shall take effect on and after January 1, 2015.~~

Sec. 34. K.S.A. 45-106 is hereby amended to read as follows: 45-106. The secretary of state shall dispose of the laws passed at each session of the legislature, immediately after their publication, as follows:

First. Deposit in the state library such numbers of copies as are needed for use in the state library, for the purposes of the publication collection and depository system established under K.S.A. 75-2566, and amendments thereto, and for the purpose of making exchanges with the libraries of the several states and territories.

Second. Distribute*:* (a) One copy to the governor, lieutenant governor, each member of the state legislature, attorney general, secretary of state~~,~~ and state historical society library, *upon request therefor*; (b) to each organized city of the first, second and third classes in this state requesting the same; (c) one copy each to the clerk of the United States court of appeals for the 10th circuit, to the clerk of the United States district court for Kansas and to the United States marshal for the district of Kansas, upon request therefor; (d) to the law department of the university of Kansas, not more than 10 copies and to the Washburn university school of law, not more than 10 copies, upon request therefor; (e) to the director of legislative administrative services such number of copies as such director shall request for use by the legislature; (f) to the office of revisor of statutes such number of copies as the revisor of statutes shall request for use in such office; (g) to the legislative research department such number of copies as the director of legislative research shall request for use in such office; (h) to the division of post audit such number of copies as the post auditor shall request for use in such office; (i) to the several offices of the judicial branch of state government such number of copies as the chief justice of the supreme court shall request for use in such offices; and (j) to the supreme court law library such number of copies as the state law librarian shall request for use in the law library and for the purpose of maintaining exchanges for books, documents and publications of a legal nature for use in the law library.

Third. To the clerk of the board of county commissioners of each county, upon request therefor, a sufficient number of copies of the laws to be distributed by such clerk to each of the following officers in such county, allowing one for each: The district attorney or county attorney, register of deeds, county clerk, county treasurer, sheriff~~,~~ and the board of county commissioners.

Fourth. Copies of the laws passed at each session of the legislature shall be deposited with the state librarian and such librarian is hereby authorized to furnish one copy to each high school, college, university, and public library in the state of Kansas, upon written application of its managing officer to the state librarian.

Sec. 35. K.S.A. 2020 Supp. 45-107 is hereby amended to read as follows: 45-107. (a) The secretary of state shall sell copies of the session laws at the per volume price for such copies fixed by the secretary of state under this section. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund of the secretary of state.

(b) Whenever the inventory of copies of any volume of the session laws exceeds 100 and a later volume of the session laws has been published, the secretary of state may dispose of copies of such volume without making a charge therefor until the inventory of such volume is reduced to 100 copies. When the inventory of any volume of the session laws is 100 copies or less, the secretary of state, with the approval of the revisor of statutes, may dispose of copies from such inventory without making a charge therefor.

(c) The secretary of state shall fix ~~by rules and regulations~~ the per volume price for copies of the session laws sold under this section to recover the costs of ~~printing, binding~~ *publishing* and storing such volumes, *whether published in print or electronic form*. The secretary of state shall revise all such prices from time to time as necessary for the purposes of covering and recovering such costs.

Sec. 36. K.S.A. 2020 Supp. 45-229 is hereby amended to read as follows: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

(1) The public record is of a sensitive or personal nature concerning individuals;

(2) the public record is necessary for the effective and efficient administration of a governmental program; or

(3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of

open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception that will expire in the following year that 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 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 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 that would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of such 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 that is used to protect or further a business advantage over those who do not know or use it, if the disclosure of such 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) 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 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, 72-2232, 72-3438, 72-6116, 72-6267, 72-9934, 73-1228, 74-2424, 74-2433f, 74-32,419, 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, 76-12c03, 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 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, 72-3415, 74-50,217 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 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 that have been reviewed during the 2016 legislative session are hereby continued in existence: 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 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 2016 and that have been reviewed during the 2017 legislative session are hereby continued in existence: 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 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, 72-8268, 75-712 and 75-5366.

(n) 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 that have been reviewed during the 2018 legislative session are hereby continued in existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832, 65-6834, 75-7c06 and 75-7c20.

(o) 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) that have been reviewed during the 2019 legislative session are hereby continued in existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d) and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article 6(d) of 65-6230, 72-6314(a) and 74-7047(b).

(p) 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) that have been reviewed during the 2020 legislative session are hereby continued in existence: 38-2310(c), 40-409(j)(2), 40-6007(a), 45-221(a)(52), 46-1129, 59-29a22(b)(10) and 65-6747.

Sec. 37. K.S.A. 45-315 is hereby amended to read as follows: 45-315. ~~The secretary of state shall furnish to the state printer, within twenty (20) days after the sine die adjournment of each legislative session occurring in odd-numbered years and within forty (40) days after the sine die ad-~~

~~journment of the legislative session occurring in even-numbered years, a copy of all acts, resolutions and other matters except the index which are required to be published and bound in the session laws, and in the form required by K.S.A. 45-301. Thereupon~~*After the sine die adjournment of each legislative session,* the state printer and the secretary of state shall complete preparation and printing of at least a limited number of each volume *of the session laws* for publication on or before July 1 of such year. The state printer shall thereafter, as rapidly as practicable, print and deliver to the secretary of state bound copies as provided by law.

Sec. 38. On and after January 1, 2023, K.S.A. 53-601 is hereby amended to read as follows: 53-601. (a) Except as provided by subsection (b), whenever a law of this state or any rules and regulations, order or requirement adopted or issued thereunder requires or permits a matter to be supported, evidenced, established or proved by the sworn written declaration, verification, certificate, statement, oath or affidavit of a person, such matter may be supported, evidenced, established or proved with the same force and effect by the unsworn written declaration, verification, certificate or statement dated and subscribed by the person as true, under penalty of perjury, in substantially the following form:

(1) If executed outside this state: "I declare (or verify, certify or state) under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct. Executed on (date).

_____(Signature)"

(2) If executed in this state: "I declare (or verify, certify or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

_____ (Signature)"

(b) The provisions of subsection (a) do not apply to the following oaths:

(1) An oath of office.

(2) An oath required to be taken before a specified official other than a notary public.

(3) An oath of a testator or witnesses as required for wills, codicils, revocations of wills and codicils and republications of wills and codicils.

(c) A notarial act performed prior to the effective date of this act is not affected by this act. Nothing in this act diminishes or invalidates the recognition accorded to notarial acts by other laws of this state or rules and regulations adopted thereunder.

(d) On or after July 1, 1989, whenever an officer or partner listed in ~~subsection (b) of~~ K.S.A. 17-2718*(d)*, ~~subsection (c) of~~ K.S.A. 17-7503*(e)*, ~~subsection (c) of~~ K.S.A. 17-7504*(e)*, ~~subsection (c) of~~ K.S.A. 17-7505*(e)*, ~~subsection (d) of~~ K.S.A. 56-1a606 ~~or subsection (d) of~~*(e) or* K.S.A. 56-1a607*(e),* and amendments thereto, is required to execute a report be-

fore a notary or swear an oath before an officer authorized to administer oaths, in lieu thereof, such person may execute an unsworn declaration if such declaration is in substantial conformity with subsections (a), (b) and (c) of this section.

(e) On or after July 1, 1990, subsections (a), (b) and (c) of this section shall have general application.

Sec. 39. K.S.A. 56-1a151 is hereby amended to read as follows: 56-1a151. (a) In order to form a limited partnership, a certificate of limited partnership must be executed and filed in the office of the secretary of state. Such certificate shall set forth:

(1) The name of the limited partnership;

(2) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by K.S.A. ~~56-1a104~~ *2020 Supp. 17-7925,* and amendments thereto;

(3) the name and the business or residence address of each general partner;

(4) the latest date upon which the limited partnership is to dissolve; and

(5) any other matters the general partners determine to include in the certificate.

(b) A limited partnership is formed at the time of the filing of the initial certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

Sec. 40. On and after January 1, 2023, K.S.A. 56-1a605 is hereby amended to read as follows: 56-1a605. (a) The secretary of state shall charge each domestic and foreign limited partnership the following fees:

(1) For issuing or filing and indexing any of the documents described below, a fee of $20:

(A) A certificate of amendment of limited partnership;

(B) a restated certificate of limited partnership;

(C) a certificate of cancellation of limited partnership;

(D) a certificate of change of location of registered office or registered agent; and

(E) any certificate, affidavit, agreement or any other paper provided for in this act, for which no different fee is specifically prescribed;

(2) for certified copies, a fee of $7.50 for each copy certified plus a fee per page, if the secretary of state supplies the copies, in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204 and amendments thereto;

(3) for each certificate of good standing and certificate of fact issued by the secretary of state, a fee of $7.50;

(4) for a report of record search, a fee of $5, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: name of the limited partnership and the address of its registered office; name and address of the resident agent; the state of the limited partnership's formation; the date of filing of its certificate of limited partnership or ~~annual~~ *business entity information* report; and date of expiration; and

(5) for photocopies of instruments on file or prepared by the secretary of state's office and which are not certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204 and amendments thereto.

(b) Every limited partnership hereafter formed in this state shall pay to the secretary of state at the time of filing its certificate of limited partnership, an application and recording fee of $150.

(c) At the time of filing its application to do business, every foreign limited partnership shall pay to the secretary of state an application and recording fee of $150.

(d) The secretary of state shall not charge any fees for the documents or services described in this section upon an official request by any agency of this state or of the United States, or by any officer or employee thereof.

Sec. 41. On and after January 1, 2023, K.S.A. 2020 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606. (a) Every limited partnership organized under the laws of this state shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The ~~annual~~ report shall be filed *biennially, as determined by the year that the limited partnership filed its formation documents. A limited partnership that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A limited partnership that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited partnership's tax period but not later than* at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.

~~(b)~~*(c)* The ~~annual~~ report shall be made on a form prescribed by the secretary of state~~. The report~~ *and* shall contain the following information:

(1) The name of the limited partnership; and

(2) a list of the partners owning at least 5% of the capital of the partnership, with the address of each.

~~(c)~~*(d)* Every limited partnership subject to the provisions of this section ~~which~~ *that* is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and ~~which~~ *that* holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under ~~subsection (c)(1)~~ *paragraph (1)* was acquired after July 1, 1981.

~~(d)~~*(e)* The ~~annual~~ report shall be signed by the general partner or partners of the limited partnership under penalty of perjury and forwarded to the secretary of state.

(f) At the time of filing ~~the~~ *its business entity information* report, the limited partnership shall pay to the secretary of state ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

~~(e)~~*(g)* The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file ~~an annual~~ *a business entity information* report or pay the required ~~annual report~~ fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file ~~an annual~~ *a business entity information* report or pay the required ~~annual report~~ fee, shall be applicable to the certificate of partnership of any limited partnership ~~which~~ *that* fails to file its ~~annual~~ *business entity information* report or pay the ~~annual report~~ *required* fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of ~~an annual~~ *a* report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the certificate of partnership of a limited partnership is forfeited for failure to file ~~an annual~~ *a business entity information* report or to pay the required ~~annual report~~ fee, the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state ~~and paying to the secretary of state all fees, including any penalties thereon, due to the state~~*, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary an amount equal to all fees and any penalties due*. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 42. On and after January 1, 2023, K.S.A. 2020 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607. (a) Every foreign limited

partnership shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The ~~annual~~ report shall be filed *biennially, as determined by the year that the foreign limited partnership filed its foreign limited partnership application. A foreign limited partnership that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited partnership that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited partnership's tax period but not later than* at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.

~~(b)~~*(c)* The ~~annual~~ report shall be made on a form prescribed by the secretary of state~~. The report~~ *and* shall contain the name of the limited partnership.

~~(c)~~*(d)* Every foreign limited partnership subject to the provisions of this section ~~which~~ *that* is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and ~~which~~ *that* holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under ~~subsection (c)(1)~~ *paragraph (1)* was acquired after July 1, 1981.

~~(d)~~*(e)* The ~~annual~~ report shall be signed by the general partner or partners of the limited partnership under penalty of perjury and forwarded to the secretary of state.

(f) At the time of filing ~~the~~ *its business entity information* report, the foreign limited partnership shall pay to the secretary of state ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

~~(e)~~*(g)* The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file ~~an annual~~ *a business entity information* report or pay the required ~~annual report~~ fee, and the provisions of K.S.A. 17-7510(b), and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file ~~an annual~~ *a business entity information* report or pay

the required ~~annual report~~ fee, shall be applicable to the authority of any foreign limited partnership which fails to file its ~~annual~~ *business entity information* report or pay the ~~annual report~~ *required* fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of ~~an annual~~ *a* report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file ~~an annual~~ *a business entity information* report or to pay the required ~~annual report~~ fee, the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state ~~and paying to the secretary of state all fees, including any penalties thereon, due to the state~~*, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary of state an amount equal to all fees and any penalties due*. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 43. K.S.A. 56a-101 is hereby amended to read as follows: 56a-101. In this act:

(a) "Business" includes every trade, occupation, and profession.

(b) "Debtor in bankruptcy" means a person who is the subject of:

(1) An order for relief under title 11 of the United States code or a comparable order under a successor statute of general application; or

(2) a comparable order under federal, state, or foreign law governing insolvency.

(c) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(d) "Foreign limited liability partnership" means a partnership that:

(1) Is formed under laws other than the laws of this state; and

(2) has the status of a limited liability partnership under those laws.

(e) "Limited liability partnership" means a partnership that has filed a statement of qualification under K.S.A. 56a-1001*, and amendments thereto,* and does not have a similar statement in effect in any other jurisdiction.

(f) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under K.S.A. 56a-202, *and amendments thereto,* predecessor law, or comparable law of another jurisdiction.

(g) "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(h) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(i) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(j) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(k) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

(l) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(m) "Statement" means a statement of partnership authority under K.S.A. 56a-303, *and amendments thereto,* a statement of denial under K.S.A. 56a-304, *and amendments thereto,* a statement of dissociation under K.S.A. 56a-704, *and amendments thereto,* a statement of dissolution under K.S.A. 56a-805, *and amendments thereto,* a statement of merger under K.S.A. 56a-907, *and amendments thereto,* a statement of qualification under K.S.A. 56a-1001, *and amendments thereto,* a statement of foreign qualification under K.S.A. 56a-1102, *and amendments thereto,* or an amendment or cancellation of any of the foregoing.

(n) *"Street address" means the location with the number, street, city, state and postal code.*

(o) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

Sec. 44. K.S.A. 2020 Supp. 56a-1001 is hereby amended to read as follows: 56a-1001. (a) A partnership may become a limited liability partnership pursuant to this section.

(b) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

(c) After the approval required by subsection (b), a partnership may become a limited liability partnership by filing a statement of qualification. The statement must contain:

(1) The name of the partnership;

(2) the address of the registered office and the name of the resident agent for service of process required to be maintained pursuant to K.S.A. 2020 Supp. ~~56a-1005~~ *17-7925*, and amendments thereto;

(3) a statement that the partnership elects to be a limited liability partnership; and

(4) a deferred effective date, if any.

(d) The status of a partnership as a limited liability partnership is effective on the later of the filing of the statement or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is canceled pursuant to ~~subsection (d) of~~ K.S.A. 56a-105*(d)*, and amendments thereto, or revoked pursuant to K.S.A. 56a-1201, and amendments thereto.

(e) The status of a partnership as a limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the statement of qualification under subsection (c).

(f) The filing of a statement of qualification establishes that a partnership has satisfied all conditions precedent to the qualification of the partnership as a limited liability partnership.

(g) An amendment or cancellation of a statement of qualification is effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

Sec. 45. On and after January 1, 2023, K.S.A. 2020 Supp. 56a-1201 is hereby amended to read as follows: 56a-1201. (a) Every limited liability partnership organized under the laws of this state shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability partnership's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The ~~annual~~ report shall be filed *biennially, as determined by the year that the limited liability partnership filed its limited liability partnership formation documents. A limited liability partnership that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A limited liability partnership that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited liability partnership's tax period but not later than* at the time prescribed by law for filing the limited liability partnership's annual Kansas income tax return.

~~(b)~~*(c)* The ~~annual~~ report shall be made on a form prescribed by the secretary of state~~. The report~~ *and* shall contain the following information:

(1) The name of the limited liability partnership; and

(2) a list of the partners owning at least 5% of the capital of the partnership, with the address of each.

~~(c)~~*(d)* The ~~annual~~ report shall be signed by a partner of the limited liability partnership under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing ~~the~~ *its business entity information* report, the limited liability partnership shall pay to the secretary of state ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

~~(d)~~*(f)* The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file ~~an annual~~ *a business entity information* report or pay the required ~~annual report~~ fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file ~~an annual~~ *a business entity information* report or pay the required ~~annual report~~ fee, shall be applicable to the statement of qualification of any limited liability partnership ~~which~~ *that* fails to file its ~~annual~~ *business entity information* report or pay the ~~annual report~~ *required* fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of ~~an annual~~ *a* report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of qualification of a limited liability partnership is forfeited for failure to file ~~an annual~~ *a business entity information* report or to pay the required ~~annual report~~ fee, the limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state ~~and paying to the secretary of state all fees, including any penalties thereon, due to the state~~, *and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary an amount equal to all fees and any penalties due*. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 46. On and after January 1, 2023, K.S.A. 2020 Supp. 56a-1202 is hereby amended to read as follows: 56a-1202. (a) Every foreign limited liability partnership shall make ~~an annual~~ *a written business entity information* report ~~in writing~~ to the secretary of state, stating the prescribed information concerning the foreign limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the foreign limited liability partnership's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The ~~annual~~ report shall be filed *biennially, as determined by the year that the foreign limited liability partnership filed its foreign limited*

liability partnership application. A foreign limited liability partnership that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited liability partnership that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the foreign limited liability partnership's tax period but not later than at the time prescribed by law for filing the foreign limited liability partnership's annual Kansas income tax return.

~~(b)~~*(c)* The ~~annual~~ report shall be made on a form prescribed by the secretary of state~~. The report~~ *and* shall contain the name of the foreign limited liability partnership.

~~(c)~~*(d)* The ~~annual~~ report shall be signed by a partner of the foreign limited liability partnership under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing ~~the~~ *its business entity information* report, the foreign limited liability partnership shall pay to the secretary of state ~~an annual report~~ *a* fee in an amount equal to ~~$40~~ *$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report*.

~~(d)~~*(f)* The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file ~~an annual~~ *a business entity information* report or pay the required ~~annual report~~ fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file ~~an annual~~ *a business entity information* report or pay the required ~~annual report~~ fee, shall be applicable to the statement of foreign qualification of any foreign limited liability partnership ~~which~~ *that* fails to file its ~~annual~~ *business entity information* report or pay the ~~annual report~~ *required* fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of ~~an annual~~ *a* report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of foreign qualification of a foreign limited liability partnership is forfeited for failure to file ~~an annual~~ *a business entity information* report or to pay the required ~~annual report~~ fee, the statement of foreign qualification of the foreign limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state ~~and paying to the secretary of state all fees, including any penalties thereon, due to the state~~*, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary of state an amount equal to all fees and any penalties due*. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 47. K.S.A. 64-103 is hereby amended to read as follows: 64-103. (a) All acts of the legislature ~~which~~ *that* shall provide for their taking effect on publication in any newspaper or in the Kansas register shall be published in the Kansas register, which shall be deemed the official publication. *Publication of the Kansas register may be in print or electronic form.* Except as otherwise provided in this subsection, all proclamations, orders, notices and advertisements authorized by any state officer shall be printed and published in the Kansas register. Payment for such publication shall be made by the state at the rates prescribed by law. The provisions of this subsection shall not apply to: (1) Resolutions making propositions to amend the constitution; or (2) proclamations issued by the governor ~~which~~ *that* are not required by law to be issued by the governor. All proclamations issued by the governor ~~which~~ *that* are not published in the Kansas register shall be published on the official Kansas ~~internet~~ website.

(b) *(1)* For the purpose of informing the electors of the propositions to be voted on at the election thereon, the secretary of state shall cause resolutions making propositions to amend the constitution to be published in ~~one newspaper in each county of the state where a newspaper is published,~~ *one newspaper in each county of the state where a newspaper is published, or, if no newspaper is published in a county, then in a Kansas-published newspaper of general circulation in each county* once each week for three consecutive weeks immediately preceding the election at which the proposition is to be submitted.

(2) After such publication, the secretary of state shall certify the amount of moneys expended on such publication and shall transmit a copy of such certification to the director of accounts and reports. Upon receipt of such certification, the director of accounts and reports shall transfer an amount of moneys equal to such certified amounts from the state general fund to the information services fee fund of the secretary of state and shall transmit a notification of such transfer to the director of legislative research and the director of the budget.

Sec. 48. K.S.A. 75-430 is hereby amended to read as follows: 75-430. (a) The secretary of state shall compile, index and publish a publication to be known as the Kansas register. Such register shall contain:

(1) All acts of the legislature required to be published in the Kansas register;

(2) all executive orders and directives of the governor ~~which~~ *that* are required to be filed in the office of the secretary of state;

(3) summaries of all opinions of the attorney general interpreting acts of the legislature as prepared by the office of the attorney general;

(4) notice of any public comment period on contemplated modification of an existing rule and regulation, and, in accordance with the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, and

amendments thereto, all notices of hearings on proposed administrative rules and regulations and the full text of all administrative rules and regulations that have been adopted and filed with the secretary of state;

(5) the full text of all administrative rules and regulations ~~which~~ *that* have been adopted and filed in accordance with the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, and amendments thereto, except that the secretary of state may publish a summary of any rule and regulation together with the address of the state agency from which a copy of the full text of the proposed rules and regulations may be received, if such rule and regulation is lengthy and expensive to publish and otherwise available in published form and a summary will, in the opinion of the secretary, properly notify the public of the contents of such rule and regulation;

(6) a cumulative index of all administrative rules and regulations ~~which~~ *that* have been adopted and filed in accordance with the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, and amendments thereto;

(7) all notices of hearings of special legislative interim study committees~~, descriptions of all prefiled bills and resolutions~~ and descriptions of all bills and resolutions introduced in the legislature during any session of the legislature, and other legislative information which is approved for publication by the legislative coordinating council;

(8) ~~the hearings docket of the Kansas supreme court and the court of appeals;~~

~~(9)~~ summaries of all orders of the state board of tax appeals ~~which~~ *that* have statewide application;

~~(10)~~*(9)* all advertisements for contracts for construction, repairs, improvements or purchases by the state of Kansas or any agency thereof for which competitive bids are required; and

~~(11)~~*(10)* any other information ~~which~~ *that* the secretary of state deems to be of sufficient interest to the general public to merit its publication or which is required by law to be published in the Kansas register.

(b) The secretary of state shall publish such register at regular intervals, but not less than weekly.

(c) Each ~~issue~~ *publication* of the register shall contain a table of contents.

(d) A cumulative index to all information required by K.S.A. 75-430 through 75-434, and amendments thereto, to be published during the previous year shall be published at least once each year.

(e) The secretary of state may omit from the register any information the publication of which the secretary deems cumbersome, expensive, or otherwise inexpedient, if the information is made available in printed or processed form by the adopting agency on application for it, and if the register contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained.

(f) ~~One copy of each issue of~~ *A subscription to* the register shall be made available without charge on request to each officer, board, commission, and department of the state having statewide jurisdiction, to each member of the legislature, to each county clerk in the state, and to the supreme court, court of appeals and each district court.

(g) The secretary of state shall make ~~paper copies of~~ *a subscription to* the register available upon payment of a fee to be fixed by the secretary of state under K.S.A. 75-433, and amendments thereto.

Sec. 49. K.S.A. 75-433 is hereby amended to read as follows: 75-433. (a) The secretary of state may fix, charge and collect publication fees from state agencies for the publication of documents and information required or authorized by law to be published in the Kansas register.

(b) The secretary of state ~~shall~~ *may* sell annual subscriptions to the Kansas register and ~~shall~~ *may* fix, charge and collect subscription fees from subscribers.

(c) ~~On and after July 1, 1984,~~ Fees established under this section shall be fixed in amounts adequate to recover the costs of ~~printing, binding, postage and handling attributable to the preparation and distribution of~~ *producing and distributing* the Kansas register.

(d) The secretary of state shall remit all moneys received by the secretary under 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 register fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person or persons designated by the secretary.

Sec. 50. K.S.A. 75-436 is hereby amended to read as follows: 75-436. (a) The secretary of state shall fix, charge and collect fees to recover the costs of delivery, including postage and handling, which are incurred in connection with the sale of volumes of the session laws, volumes and sets of the Kansas Statutes Annotated, including the cumulative supplements thereto, volumes of the permanent journals of the senate and house of representatives and volumes and sets of the Kansas administrative regulations, including the annual supplements thereto. ~~All such fees shall be fixed by rules and regulations adopted by the secretary of state.~~

(b) The secretary of state shall remit all moneys received from fees and charges 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 information and services fee fund of the secretary of state.

Sec. 51. On and after January 1, 2023, K.S.A. 75-446 is hereby amended to read as follows: 75-446. The secretary of state shall remit all moneys received from ~~annual~~ *business entity information* report fees, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 52. K.S.A. 75-1005 is hereby amended to read as follows: 75-1005. *(a) Except as provided by subsection (b),* the division of printing shall do all of the public printing and binding required by the legislature, the supreme court, the governor or any state agency. Any state institution where a printing plant is already established may be permitted to do printing for the institution when approved by the director of printing. When the director of printing is of the opinion that a particular printing job should be obtained in the commercial market, such director, unless otherwise instructed by the secretary of administration, may authorize any state agency to so obtain such printing in accordance with laws relating to purchasing. ~~The provisions of this section shall not apply to contracts entered into under K.S.A. 76-392 or as otherwise provided by law.~~

(b) The secretary of state may obtain printing or binding services as provided by section 1, and amendments thereto, in the commercial market in accordance with laws related to purchasing and procurement by state agencies. The secretary of state shall not be required to obtain the authorization of the director of printing or of the secretary of administration otherwise required for state agencies under subsection (a) to obtain such printing or binding services.

Sec. 53. K.S.A. 75-3520 is hereby amended to read as follows: 75-3520. (a) (1) Unless required by federal law, no document available for public inspection or copying shall contain an individual's social security number if such document contains such individual's personal information. "Personal information" shall include, but not be limited to, name, address, phone number or e-mail address.

(2) *(A)* The provisions of paragraphs (1) and (3) ~~of this subsection~~ shall not apply to documents recorded in the official records of any recorder of deeds of the county or to any documents filed in the official records of the court and shall be included, but not limited to, such documents of any records that when filed constitutes:

~~(A)~~*(i)* A consensual or nonconsensual lien;

~~(B)~~*(ii)* an eviction record;

~~(C)~~*(iii)* a judgment;

~~(D)~~*(iv)* a conviction or arrest;

~~(E)~~*(v)* a bankruptcy;

~~(F)~~*(vi)* a secretary of state filing; or

~~(C)~~*(vii)* a professional license.

(B) The provisions of paragraphs (1) and (3) shall not apply to documents recorded pursuant to article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, if the social security number is improperly placed on a form, in a description or included in an attachment.

(3) Any document or record that contains all or any portion of an individual's social security number shall have all portions of all social security numbers redacted before the document or record is made available for public inspection or copying.

(4) (A) An agency shall give notice as defined in K.S.A. 2020 Supp. 50-7a01, and amendments thereto, to any individual whose personal information was disclosed in violation of this subsection when it becomes aware of the unauthorized disclosure. Notice shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement and any measures necessary to determine the scope of unauthorized disclosures.

(B) The agency shall offer to such individuals credit monitoring services at no cost for a period of one year. The agency shall provide all information necessary for such individual to enroll in such services and shall include information on how such individual can place a security freeze on such individual's consumer report.

(b) (1) No person, including an individual, firm, corporation, association, partnership, joint venture or other business entity, or any employee or agent therefor, shall solicit, require or use for commercial purposes an individual's social security number unless such number is necessary for such person's normal course of business and there is a specific use for such number for which no other identifying number may be used.

(2) Paragraph (1) ~~of this subsection~~ does not apply to documents or records that are recorded or required to be open to the public pursuant to state or federal law, or by court rule or order, and this paragraph does not limit access to these documents or records.

(3) Paragraph (1) ~~of this subsection~~ does not apply to the collection, use or release of social security numbers for the following purposes:

(A) Mailing of documents that include social security numbers sent as part of an application or enrollment process or to establish, amend or terminate an account, contract or policy or to confirm the accuracy of the social security number;

(B) internal verification or administrative purposes;

(C) investigate or prevent fraud, conduct background checks, conduct social or scientific research, collect a debt, obtain a credit report from or furnish data to a consumer reporting agency pursuant to the fair credit reporting act, 15 U.S.C. § 1681 et seq., undertake a permissible purpose enumerated under the Gramm-Leach Bliley Act, 15 U.S.C. § 6802 (e), or

locate an individual who is missing, a lost relative, or due a benefit, such as pension, insurance or unclaimed property benefit; or

(D) otherwise required by state or federal law or regulation.

(c) An individual who is aggrieved by a violation of this section may recover a civil penalty of not more than $1,000 for each violation.

Sec. 54. K.S.A. 77-138 is hereby amended to read as follows: 77-138. (a) Volumes of the Kansas Statutes Annotated shall be printed and bound by the director of printing and delivered to the secretary of state who shall dispose of them as follows:

First, the secretary of state shall deposit in the supreme court law library and in the state library such number of copies as the state law librarian and the state librarian, respectively, shall request for use in the law library and the state library, for the purposes of the publication collection and depository system established under K.S.A. 75-2566, and amendments thereto, and for the purpose of making exchanges with the various states and territories, and the secretary of state shall retain one set for the secretary's use in the secretary's office.

Second, (1) the secretary of state shall distribute ~~two~~ *one* complete ~~sets~~ *set* of the Kansas Statutes Annotated to each *new* member of the legislature at each regular session, ~~one set of which shall have the respective member's name~~ *and if requested by the new member, the new member's name shall be* printed thereon.

(2) The secretary of state shall distribute such number of complete sets and individual volumes of the Kansas Statutes Annotated: (A) To the office of revisor of statutes as the revisor of statutes shall request; (B) to the legislative research department as the director of legislative research shall request; (C) to the division of post audit as the post auditor shall request; (D) to the division of legislative administrative services as the director of legislative administrative services shall request; and (E) to the judicial branch of state government as the chief justice of the supreme court shall request.

(3) The secretary of state shall distribute: (A) Two sets to each representative in congress and United States senator from the state of Kansas, upon request by such representative or senator; (B) one set each to the governor, lieutenant governor and attorney general; (C) to Washburn university school of law, the number of sets, not to exceed 60 sets, that the librarian of the school of law certifies to the secretary of state as necessary for the purpose of exchanging with other states and territories and to be kept in the library for the use of faculty and students of the university; (D) to the school of law of the university of Kansas, the number of sets, not to exceed 60 sets, that the librarian of the school of law certifies to the secretary of state as necessary for the purpose of exchanging with other states and territories and to be kept in the library for the use of faculty

and students of the university; (E) to the clerk of the district court of the United States for the state of Kansas, the number of sets, not to exceed five sets, as are requested by such clerk; (F) one set to each county law library in the state, upon request by the librarian thereof; (G) to each county clerk, the number of sets requested by the county clerk, not to exceed seven sets, to be distributed not more than one set each to the county or district attorney, the county clerk, the county counselor, if any, the register of deeds, the sheriff, the county treasurer, and the board of county commissioners, which set shall be retained by the county clerk for use by such board; (H) not more than one set to each city of the third class, one set to each city of the second class and two sets to each city of the first class, upon request by the city clerk; and (I) one set to the state historical society library.

Third, the balance of statute books, after the above distribution shall be kept by the secretary of state for sale.

(b) The secretary of state shall sell each volume of the Kansas Statutes Annotated, including replacement volumes, at the per volume price fixed therefor by the legislative coordinating council under this section. General index volumes, when sold separately and not as a part of a set of cumulative supplements, shall be sold at the per volume price fixed therefor by the legislative coordinating council. The secretary of state shall remit all moneys received from such sales 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 state general fund.

(c) The legislative coordinating council shall fix the per volume price of each volume of the Kansas Statutes Annotated, including replacement volumes, sold under this section to recover the costs of printing and binding such volumes. The legislative coordinating council shall revise such prices from time to time for the purposes of covering and recovering such costs.

Sec. 55. K.S.A. 77-417 is hereby amended to read as follows: 77-417. (a) The secretary of state shall:

(1) Endorse on each rule and regulation filed, the ~~time and~~ date of the filing thereof;

(2) maintain a file of such rules and regulations for public inspection;

(3) keep a complete record of all amendments and revocations of rules and regulations;

(4) index the rules and regulations so filed; and

(5) publish the rules and regulations as hereinafter provided.

(b) The secretary of state shall have the discretion to return to the appropriate state agency or to otherwise dispose of any document or other

material ~~which~~ *that* had been adopted previously by reference and filed with the secretary of state.

Sec. 56. K.S.A. 77-430 is hereby amended to read as follows: 77-430. (a) The secretary of state shall publish the Kansas administrative regulations in an electronic or paper medium. The secretary of state shall make the Kansas administrative regulations available by request to the following:

(1) The supreme court law library and the state library~~.~~*;*

(2) the law schools and law libraries of the university of Kansas and Washburn university~~.~~*;*

(3) each member of the legislature at the time of taking office, after election or appointment, for the member's first term of office as a member of either house of the legislature ~~which~~ *that* commences on or after the second Monday of January in 1991, except that a term of office as a member of either house of the legislature, whether a complete or partial term of office, shall not be construed for purposes of this distribution to be the member's first term of office if such term of office is part of a continuous period of service as a member of either house of the legislature or both houses of the legislature, in any combination of consecutive terms of office;

(4) each member of the joint committee on administrative rules and regulations;

(5) the governor, lieutenant governor, attorney general and state historical society library;

(6) the judicial branch of state government;

(7) each county law library;

(8) the city library in each city of the first and second class;

(9) each county library;

(10) the office of revisor of statutes;

(11) the legislative research department;

(12) the division of post audit; and

(13) the division of legislative administrative services.

(b) The Kansas administrative regulations may be purchased in complete sets or in single volumes. Single volumes of the Kansas administrative regulations shall be sold by the secretary of state at the per volume price fixed by the secretary of state under this section. Complete sets of the Kansas administrative regulations shall be sold by the secretary of state at the per set price fixed therefor by the secretary of state under this section.

(c) All moneys received from such sales 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 information and services fee fund of the secretary of state.

(d) The secretary of state shall fix ~~by rules and regulations~~ the per volume and complete set prices of the Kansas administrative regulations sold under this section to recover the costs of publishing *and storing* such volumes, whether in printed or electronic form. The secretary of state shall revise such prices from time to time for the purposes of covering and recovering such costs.

Sec. 57. K.S.A. 77-430a is hereby amended to read as follows: 77-430a. (a) The secretary of state shall edit and prepare for publication volumes of rules and regulations ~~which~~ *that* replace existing volumes of the Kansas administrative regulations within the limitations of available appropriations therefor. Replacement volumes shall be published in the same format and in accordance with the same specifications used in the volume replaced and shall be authenticated as required by K.S.A. 77-429, and amendments thereto. Replacement volumes of the Kansas administrative regulations shall be published by the secretary of state who shall distribute and sell such replacement volumes in the same manner as provided in K.S.A. 77-430, and amendments thereto, for the distribution and sale of other volumes of the Kansas administrative regulations, except that each member of the senate or house of representatives shall receive, upon request, one copy of each replacement volume for the purpose of updating the set of the Kansas administrative regulations received at the time of taking office for the member's first term of office as a member of either house of the legislature as provided in K.S.A. 77-430, and amendments thereto.

(b) Moneys received from the sale of replacement volumes 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 information and services fee fund of the secretary of state.

(c) The secretary of state shall fix ~~by rules and regulations~~ the per volume price, or the complete set price if more than one replacement volume is published, of any replacement volume of the Kansas administrative regulations sold under this section to recover the costs of publishing *and storing* such volumes, whether in printed or electronic form. The secretary of state shall revise such prices from time to time for the purposes of covering and recovering such costs.

Sec. 58. K.S.A. 77-431 is hereby amended to read as follows: 77-431. (a) The secretary of state shall publish and make available the annual supplements to the Kansas administrative regulations. The secretary of state shall transmit the same number of copies of each annual supplement in the same manner as provided in ~~subsection (a) of~~ K.S.A. 77-430*(a)*, and amendments thereto, for distribution of Kansas administrative regulations, except that each member of the senate or house of representatives

shall receive, upon request, one copy of each annual supplement for the purpose of updating the set of the Kansas administrative regulations received at the time of taking office for the member's first term of office as a member of either house of the legislature as provided in K.S.A. 77-430, and amendments thereto.

The secretary of state may publish the supplements to the Kansas administrative regulations in an electronic or paper medium.

(b) Moneys received from the sale of supplements 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 information and services fee fund of the secretary of state.

(c) The secretary of state shall fix ~~by rules and regulations~~ the per volume price, or the complete set price if more than one volume is published, for each annual supplement to the Kansas administrative regulations sold under this section to recover the costs of publishing *and storing such volumes*, whether published in an electronic or paper medium. The secretary of state shall revise such prices from time to time for the purposes of covering and recovering such costs.

Sec. 59. K.S.A. 77-438 is hereby amended to read as follows: 77-438. (a) (1) A state agency may issue a guidance document without following the procedures set forth in this act for the adoption of rules and regulations.

(2) For the purposes of this section, "guidance document" means a record of general applicability that:

(A) Is designated by a state agency as a guidance document;

(B) lacks the force of law; and

(C) states:

(i) The agency's current approach to, or interpretation of, law; or

(ii) general statements of policy that describe how and when the agency will exercise discretionary functions.

(b) A guidance document may contain binding instructions to state agency staff members except officers who preside in adjudicatory proceedings.

(c) If a state agency proposes to act in an adjudication at variance with a position expressed in a guidance document, the state agency shall provide a reasonable explanation for the variance. If an affected person in an adjudication claims to have reasonably relied on the agency's position, the state agency's explanation for the variance shall include a reasonable justification for the agency's conclusion that the need for the variance outweighs the affected person's reliance interests.

(d) Each state agency shall:

(1) Maintain an index of all of its currently effective guidance documents;

(2) publish the index on its website; *and*

(3) make all guidance documents available to the public~~; and~~

~~(4) file the index in the manner prescribed by the secretary of state~~.

(e) A guidance document may be considered by a presiding officer or agency head in an agency adjudication, but such guidance document shall not bind any party, the presiding officer or the agency head.

(f) Any agency that issues a guidance document shall provide a copy of such document to the joint committee on administrative rules and regulations. Such document may be submitted electronically.

Sec. 60. K.S.A. 17-2711, 45-106, 45-315, 56-1a151, 56a-101, 64-103, 75-430, 75-433, 75-436, 75-1005, 77-138, 77-417, 77-430, 77-430a, 77-431 and 77-438 and K.S.A. 2020 Supp. 17-6014, 17-78-601, 17-7910, 45-107, 45-229, 56a-1001, 57-205, 57-206, 57-207, 75-447 and 75-3520 are hereby repealed.

Sec. 61. On and after January 1, 2023, K.S.A. 17-1513, 17-1618, 17-2037, 17-4677, 17-5902, 17-7509, 17-7511, 53-601, 56-1a605 and 75-446 and K.S.A. 2020 Supp. 17-2036, 17-2718, 17-4634, 17-6014, as amended by section 10 of this act, 17-7002, 17-7503, 17-7504, 17-7505, 17-7506, 17-7507, 17-7510, 17-7512, 17-76,136, 17-76,139, 17-76,146, 17-76,147, 17-7903, 17-7904, 17-7905, 17-7906, 17-7910, as amended by section 31 of this act, 17-7936, 56-1a606, 56-1a607, 56a-1201 and 56a-1202 are hereby repealed.

Sec. 62. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2021.

CHAPTER 62

SENATE BILL No. 103
(Amended by Chapter 113)

AN ACT concerning the Kansas power of attorney act; relating to the effectiveness of a power of attorney; exemption of third persons from liability in certain circumstances; amending K.S.A. 58-658 and K.S.A. 2020 Supp. 58-652 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 58-652 is hereby amended to read as follows: 58-652. (a) The authority granted by a principal to an attorney in fact in a written power of attorney is not terminated in the event the principal becomes wholly or partially disabled or in the event of later uncertainty as to whether the principal is dead or alive if:

(1) The power of attorney is denominated a "durable power of attorney";

(2) the power of attorney includes a provision that states in substance one of the following:

(A) "This is a durable power of attorney and the authority of my attorney in fact shall not terminate if I become disabled or in the event of later uncertainty as to whether I am dead or alive"; or

(B) "this is a durable power of attorney and the authority of my attorney in fact, when effective, shall not terminate or be void or voidable if I am or become disabled or in the event of later uncertainty as to whether I am dead or alive"; and

(3) the power of attorney is signed by the principal, and dated and acknowledged in the manner prescribed by K.S.A. 53-501 et seq., and amendments thereto. If the principal is physically unable to sign the power of attorney but otherwise competent and conscious, the power of attorney may be signed by an adult designee of the principal in the presence of the principal and at the specific direction of the principal expressed in the presence of a notary public. The designee shall sign the principal's name to the power of attorney in the presence of a notary public, following which the document shall be acknowledged in the manner prescribed by K.S.A. 53-501 et seq., and amendments thereto, to the same extent and effect as if physically signed by the principal.

(b) All acts done by an attorney in fact pursuant to a durable power of attorney shall inure to the benefit of and bind the principal and the principal's successors in interest, notwithstanding any disability of the principal.

(c) (1) A power of attorney does not have to be recorded to be valid and binding between the principal and attorney in fact or between the principal and third persons.

(2) A power of attorney may be recorded in the same manner as a conveyance of land is recorded. A certified copy of a recorded power of attorney may be admitted into evidence.

(3) If a power of attorney is recorded any revocation of that power of attorney must be recorded in the same manner for the revocation to be effective. If a power of attorney is not recorded it may be revoked by a recorded revocation or in any other appropriate manner.

(4) If a power of attorney requires notice of revocation be given to named persons, those persons may continue to rely on the authority set forth in the power of attorney until such notice is received.

(d) A person who is appointed an attorney in fact under a durable power of attorney has no duty to exercise the authority conferred in the power of attorney, unless the attorney in fact has agreed expressly in writing to act for the principal in such circumstances. An agreement to act on behalf of the principal is enforceable against the attorney in fact as a fiduciary without regard to whether there is any consideration to support a contractual obligation to do so. Acting for the principal in one or more transactions does not obligate an attorney in fact to act for the principal in subsequent transactions.

(e) The grant of power or authority conferred by a power of attorney in which any principal shall vest any power or authority in an attorney in fact, if such writing expressly so provides, shall be effective only upon: (1) A specified future date; (2) the occurrence of a specified future event; or (3) the existence of a specified condition which may occur in the future. In the absence of actual knowledge to the contrary, any person to whom such writing is presented shall be entitled to rely on an affidavit, executed by the attorney in fact, setting forth that such event has occurred or condition exists.

(f) A power of attorney executed on or after July 1, 2021, shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council. The judicial council shall develop a form for use under this section.

(g) The amendments made to this section by this act apply prospectively and shall not affect the validity of a power of attorney executed prior to July 1, 2021.

Sec. 2. K.S.A. 58-658 is hereby amended to read as follows: 58-658. (a) A third person, who is acting in good faith, without liability to the principal or the principal's successors in interest, may rely and act on any power of attorney executed by the principal *and acknowledged in the manner prescribed by K.S.A. 53-501 et seq., and amendments thereto. A signature on a power of attorney is presumed to be genuine if acknowledged in the manner prescribed by K.S.A. 53-501 et seq., and amendments thereto*. A third person, with respect to the subjects and purposes encompassed by or separately expressed in the power of attorney, may rely and act on the instructions of or otherwise contract and deal with the principal's attorney in fact or successor attorney in fact and, in the absence of actual knowl-

edge, as defined in subsection ~~(c)~~ *(d)*, is not responsible for determining and has no duty to inquire as to any of the following:

(1) The authenticity of a copy of a power of attorney furnished by the principal's attorney in fact or successor;

(2) the validity of the designation of the attorney in fact or successor;

(3) whether the attorney in fact or successor is qualified to act as an attorney in fact for the principal;

(4) the propriety of any act of the attorney in fact or successor in the principal's behalf, including, but not limited to, whether or not an act taken or proposed to be taken by the attorney in fact, constitutes a breach of any duty or obligation owed to the principal, including, but not limited to, the obligation to the principal not to modify or alter the principal's estate plan or other provisions for distributions of assets at death, as provided in ~~subsection (a) of~~ K.S.A. 58-656*(a)*, and amendments thereto;

(5) whether any future event, condition or contingency making effective or terminating the authority conferred in a power of attorney has occurred;

(6) whether the principal is disabled or has been adjudicated disabled;

(7) whether the principal, the principal's legal representative or a court has given the attorney in fact any instructions or the content of any instructions, or whether the attorney in fact is following any instructions received;

(8) whether the authority granted in a power of attorney has been modified by the principal, a legal representative of the principal or a court;

(9) whether the authority of the attorney in fact has been terminated, except by an express provision in the power of attorney showing the date on which the power of attorney terminates;

(10) whether the power of attorney, or any modification or termination thereof, has been recorded, except as to transactions affecting real estate;

(11) whether the principal had legal capacity to execute the power of attorney at the time the power of attorney was executed;

(12) whether, at the time the principal executed the power of attorney, the principal was subjected to duress, undue influence or fraud, or the power of attorney was for any other reason void or voidable, if the power of attorney appears to be regular on its face;

(13) whether the principal is alive;

(14) whether the principal and attorney in fact were married at or subsequent to the time the power of attorney was created and whether an action for annulment, separate maintenance or divorce has been filed by either party; or

(15) the truth or validity of any facts or statements made in an affidavit of the attorney in fact or successor with regard to the ability or capacity of

the principal, the authority of the attorney in fact or successor under the power of attorney, the happening of any event or events vesting authority in any successor or contingent attorney in fact, the identity or authority of a person designated in the power of attorney to appoint a substitute or successor attorney in fact or that the principal is alive.

(b) *Nothing in subsection (a) shall relieve a third person of any duty to report abuse, neglect or exploitation pursuant to K.S.A. 39-1402 or 39-1431, and amendments thereto, and making such report shall relieve the third person of any liability for not accepting a power of attorney as provided in subsection (g)(6).*

(c) A third person, in good faith and without liability to the principal or the principal's successors in interest, even with knowledge that the principal is disabled, may rely and act on the instructions of or otherwise contract and deal with the principal's attorney in fact or successor attorney in fact acting pursuant to authority granted in a durable power of attorney.

~~(c)~~*(d)* A third person that conducts activities through employees shall not be charged under this act with actual knowledge of any fact relating to a power of attorney, nor of a change in the authority of an attorney in fact, unless the information is received at a home office or a place where there is an employee with responsibility to act on the information, and the employee has a reasonable time in which to act on the information using the procedures and facilities that are available to the third person in the regular course of its operations.

~~(d)~~*(e)* A third person, when being requested to engage in transactions with a principal through the principal's attorney in fact, may:

(1) Require the attorney in fact to provide specimens of the attorney in fact's signature and any other information reasonably necessary or appropriate in order to facilitate the actions of the third person in transacting business through the attorney in fact;

(2) *request and rely upon a certification by the attorney in fact, provided under penalty of perjury, of any factual matter concerning the principal, attorney in fact or power of attorney;*

(3) request and rely upon an opinion of counsel as to any matter of law concerning the power of attorney if the third person provides in a writing or other record the reason for the request;

(4) require the attorney in fact to indemnify the third person against forgery of the power of attorney, by bond or otherwise. If the power of attorney is durable as defined in ~~subsection (a) of~~ K.S.A. 58-652*(a)*, and amendments thereto, and if either the principal or the attorney in fact seeking to act is and has been a resident of this state for at least two years, and if the attorney in fact has executed in the name of the principal and delivered to the third person an indemnity agreement reasonably satisfactory in form to such third person, no such bond shall be required; and

~~(3)~~*(5)* prescribe the place and manner in which the third person will be given any notice respecting the principal's power of attorney and the time in which the third person has to comply with any notice.

(f) A third person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

(g) A third person shall accept a power of attorney acknowledged in the manner prescribed by K.S.A. 53-501 et seq., and amendments thereto, unless:

(1) The person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(2) engaging in a transaction with the attorney in fact or principal in the same circumstances would be inconsistent with federal law;

(3) the person has actual knowledge of the termination of the attorney in fact's authority or of the power of attorney before the exercise of the power;

(4) a request for information, certification or indemnification under subsection (e) is refused;

(5) the person in good faith believes that the power is not valid or that the attorney in fact does not have the authority to perform the act requested, whether or not a certification or an opinion of counsel under subsection (e) has been requested or provided; or

(6) the person makes, or has actual knowledge that another person has made, a report under K.S.A. 39-1402 or 39-1431, and amendments thereto, stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation or abandonment by the attorney in fact or a person acting for or with the attorney in fact.

(h) A third person that refuses to accept a power of attorney acknowledged in the manner prescribed by K.S.A. 53-501 et seq., and amendments thereto, in violation of this section is subject to a court order mandating acceptance of the power of attorney. Reasonable attorney fees and costs may be awarded in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney if the court determines the third person did not act in good faith.

(i) An attorney in fact's certification shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council. The judicial council shall develop a form for use under this section.

Sec. 3. K.S.A. 58-658 and K.S.A. 2020 Supp. 58-652 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 21, 2021.

CHAPTER 63

SENATE BILL No. 107

AN ACT enacting the uniform fiduciary income and principal act; repealing the uniform principal and income act (1997); amending K.S.A. 2020 Supp. 58a-103 and repealing the existing section; also repealing K.S.A. 58-9-101, 58-9-102, 58-9-103, 58-9-104, 58-9-201, 58-9-202, 58-9-301, 58-9-302, 58-9-303, 58-9-401, 58-9-402, 58-9-403, 58-9-404, 58-9-405, 58-9-406, 58-9-407, 58-9-408, 58-9-410, 58-9-411, 58-9-412, 58-9-413, 58-9-414, 58-9-415, 58-9-501, 58-9-502, 58-9-503, 58-9-504, 58-9-506, 58-9-601, 58-9-602 and 58-9-603 and K.S.A. 2020 Supp. 58-9-105, 58-9-106, 58-9-409, 58-9-505 and 58-9-606.

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

New Section 1. This act may be cited as the uniform fiduciary income and principal act.

New Sec. 2. In this act:

(1) "Accounting period" means a calendar year, unless a fiduciary selects another period of 12 calendar months or approximately 12 calendar months. "Accounting period" includes a part of a calendar year or another period of 12 calendar months or approximately 12 calendar months, which begins when an income interest begins or ends when an income interest ends.

(2) "Asset-backed security" means a security that is serviced primarily by the cash flows of a discrete pool of fixed or revolving receivables or other financial assets that by their terms convert into cash within a finite time. "Asset-backed security" includes rights or other assets that ensure the servicing or timely distribution of proceeds to the holder of the asset-backed security, but does not include an asset to which section 17, 25 or 30, and amendments thereto, applies.

(3) "Beneficiary" includes:

(A) For a trust:

(i) A current beneficiary, including a current income beneficiary and a beneficiary that may receive only principal;

(ii) a remainder beneficiary; and

(iii) any other successor beneficiary;

(B) for an estate, an heir, legatee and devisee; and

(C) for a life estate or term interest, a person that holds a life estate, term interest or remainder or other interest following a life estate or term interest.

(4) "Court" means the district court.

(5) "Current income beneficiary" means a beneficiary to which a fiduciary may distribute net income, whether or not the fiduciary also may distribute principal to the beneficiary.

(6) "Distribution" means a payment or transfer by a fiduciary to a beneficiary in the beneficiary's capacity as a beneficiary, made under the

terms of the trust, without consideration other than the beneficiary's right to receive the payment or transfer under the terms of the trust. "Distribute," "distributed" and "distributee" have corresponding meanings.

(7) "Estate" means a decedent's estate. "Estate" includes the property of the decedent as the estate is originally constituted and the property of the estate as it exists at any time during administration.

(8) "Fiduciary" includes a trustee, person holding a power to direct and presumptively serving as a fiduciary under K.S.A. 58a-808, and amendments thereto, personal representative, life tenant, holder of a term interest and person acting under a delegation from a fiduciary. "Fiduciary" includes a person that holds property for a successor beneficiary whose interest may be affected by an allocation of receipts and expenditures between income and principal. If there are two or more co-fiduciaries, "fiduciary" includes all co-fiduciaries acting under the terms of the trust and applicable law.

(9) "Income" means moneys or other property a fiduciary receives as current return from principal. "Income" includes a part of receipts from a sale, exchange or liquidation of a principal asset, to the extent provided in sections 17 through 32, and amendments thereto.

(10) "Income interest" means the right of a current income beneficiary to receive all or part of net income, whether the terms of the trust require the net income to be distributed or authorize the net income to be distributed in the fiduciary's discretion. "Income interest" includes the right of a current beneficiary to use property held by a fiduciary.

(11) "Independent person" means a person that is not:

(A) For a trust:

(i) A qualified beneficiary determined under K.S.A. 58a-103(12), and amendments thereto;

(ii) a settlor of the trust; or

(iii) an individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(B) for an estate, a beneficiary;

(C) a spouse, parent, brother, sister or issue of an individual described in paragraph (A) or (B);

(D) a corporation, partnership, limited liability company or other entity in which persons described in paragraphs (A) through (C), in the aggregate, have voting control; or

(E) an employee of a person described in paragraph (A), (B), (C) or (D).

(12) "Mandatory income interest" means the right of a current income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(13) "Net income" means the total allocations during an accounting period to income under the terms of a trust and this act minus the dis-

bursements during the period, other than distributions, allocated to income under the terms of the trust and this act. To the extent the trust is a unitrust under sections 8 through 16, and amendments thereto, "net income" means the unitrust amount determined under sections 8 through 16, and amendments thereto. "Net income" includes an adjustment from principal to income under section 7, and amendments thereto, but does not include an adjustment from income to principal under section 7, and amendments thereto.

(14) "Person" means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality thereof or other legal entity.

(15) "Personal representative" means an executor, administrator, successor personal representative, special administrator or person that performs substantially the same function with respect to an estate under the law governing the person's status.

(16) "Principal" means property held in trust for distribution to, production of income for or use by a current or successor beneficiary.

(17) "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.

(18) "Settlor" means a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, "settlor" includes each person, to the extent of the trust property attributable to that person's contribution, except to the extent another person has the power to revoke or withdraw that portion.

(19) "Special tax benefit" means:

(A) Exclusion of a transfer to a trust from gifts described in section 2503(b) of the internal revenue code of 1986, 26 U.S.C. § 2503(b), because of the qualification of an income interest in the trust as a present interest in property;

(B) status as a qualified subchapter S trust described in section 1361(d)(3) of the internal revenue code of 1986, 26 U.S.C. § 1361(d)(3), at a time the trust holds stock of an S corporation described in section 1361(a)(1) of the internal revenue code of 1986, 26 U.S.C. § 1361(a)(1);

(C) an estate or gift tax marital deduction for a transfer to a trust under section 2056 or 2523 of the internal revenue code of 1986, 26 U.S.C. § 2056 or 2523, that depends or depended in whole or in part on the right of the settlor's spouse to receive the net income of the trust;

(D) exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by section 2601 of the internal revenue code of 1986, 26 U.S.C. § 2601, because the trust was irrevocable on September 25, 1985, if there is any possibility that:

(i) A taxable distribution, as defined in section 2612(b) of the internal revenue code of 1986, 26 U.S.C. § 2612(b), could be made from the trust; or

(ii) a taxable termination, as defined in section 2612(a) of the internal revenue code of 1986, 26 U.S.C. § 2612(a), could occur with respect to the trust; or

(E) an inclusion ratio, as defined in section 2642(a) of the internal revenue code of 1986, 26 U.S.C. § 2642(a), of the trust that is less than one, if there is any possibility that:

(i) A taxable distribution, as defined in section 2612(b) of the internal revenue code of 1986, 26 U.S.C. § 2612(b), could be made from the trust; or

(ii) a taxable termination, as defined in section 2612(a) of the internal revenue code of 1986, 26 U.S.C. § 2612(a), could occur with respect to the trust.

(20) "Successive interest" means the interest of a successor beneficiary.

(21) "Successor beneficiary" means a person entitled to receive income or principal or to use property when an income interest or other current interest ends.

(22) "Terms of a trust" means:

(A) Except as otherwise provided in paragraph (B), the manifestation of the settlor's intent regarding a trust's provisions as:

(i) Expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding;

(B) the trust's provisions as established, determined or amended by:

(i) A trustee or person holding a power to direct under K.S.A. 58a-808, and amendments thereto, in accordance with applicable law;

(ii) court order; or

(iii) a nonjudicial settlement agreement under K.S.A. 58a-111, and amendments thereto;

(C) for an estate, a will; or

(D) for a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries.

(23) "Trust":

(A) Includes:

(i) An express trust, private or charitable, with additions to the trust, wherever and however created; and

(ii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust; and

(B) does not include:

(i) A constructive trust;

(ii) a resulting trust, conservatorship, guardianship, multi-party account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, retirement benefits or employee benefits of any kind; or

(iii) an arrangement under which a person is a nominee, escrowee or agent for another.

(24) "Trustee" means a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary. "Trustee" includes an original, additional or successor trustee, whether or not appointed or confirmed by a court.

(25) "Will" means any testamentary instrument recognized by applicable law that makes a legally effective disposition of an individual's property, effective at the individual's death. "Will" includes a codicil or other amendment to a testamentary instrument.

New Sec. 3. Except as otherwise provided in the terms of a trust or this act, this act applies to:

(a) A trust or estate; and

(b) a life estate or other term interest in which the interest of one or more persons will be succeeded by the interest of one or more other persons.

New Sec. 4. Except as otherwise provided in the terms of a trust or this act, this act applies when the state of Kansas is the principal place of administration of a trust or estate or the situs of property that is not held in a trust or estate and is subject to a life estate or other term interest described in section 3, and amendments thereto. By accepting the trusteeship of a trust having its principal place of administration in this state or by moving the principal place of administration of a trust to this state, the trustee submits to the application of this act to any matter within the scope of this act involving the trust.

New Sec. 5. (a) In making an allocation or determination or exercising discretion under this act, a fiduciary shall:

(1) Act in good faith, based on what is fair and reasonable to all beneficiaries;

(2) administer a trust or estate impartially, except to the extent the terms of the trust manifest an intent that the fiduciary shall or may favor one or more beneficiaries;

(3) administer the trust or estate in accordance with the terms of the trust, even if there is a different provision in this act; and

(4) administer the trust or estate in accordance with this act, except to the extent the terms of the trust provide otherwise or authorize the fiduciary to determine otherwise.

(b) A fiduciary's allocation, determination or exercise of discretion under this act is presumed to be fair and reasonable to all beneficiaries. A fiduciary may exercise a discretionary power of administration given to the fiduciary by the terms of the trust, and an exercise of the power that produces a result different from a result required or permitted by this act does not create an inference that the fiduciary abused the fiduciary's discretion.

(c) A fiduciary shall:

(1) Add a receipt to principal, to the extent neither the terms of the trust nor this act allocates the receipt between income and principal; and

(2) charge a disbursement to principal, to the extent neither the terms of the trust nor this act allocates the disbursement between income and principal.

(d) A fiduciary may exercise the power to adjust under section 7, and amendments thereto, convert an income trust to a unitrust under section 10(a)(1), and amendments thereto, change the percentage or method used to calculate a unitrust amount under section 10(a)(2), and amendments thereto, or convert a unitrust to an income trust under section 10(a)(3), and amendments thereto, if the fiduciary determines the exercise of the power will assist the fiduciary to administer the trust or estate impartially.

(e) Factors the fiduciary must consider in making the determination under subsection (d) include:

(1) The terms of the trust;

(2) the nature, distribution standards and expected duration of the trust;

(3) the effect of the allocation rules, including specific adjustments between income and principal, under sections 17 through 44, and amendments thereto;

(4) the desirability of liquidity and regularity of income;

(5) the desirability of the preservation and appreciation of principal;

(6) the extent to which an asset is used or may be used by a beneficiary;

(7) the increase or decrease in the value of principal assets, reasonably determined by the fiduciary;

(8) whether and to what extent the terms of the trust give the fiduciary power to accumulate income or invade principal or prohibit the fiduciary from accumulating income or invading principal;

(9) the extent to which the fiduciary has accumulated income or invaded principal in preceding accounting periods;

(10) the effect of current and reasonably expected economic conditions; and

(11) the reasonably expected tax consequences of the exercise of the power.

New Sec. 6. (a) In this section, "fiduciary decision" means:

(1) A fiduciary's allocation between income and principal or other determination regarding income and principal required or authorized by the terms of the trust or this act;

(2) the fiduciary's exercise or nonexercise of a discretionary power regarding income and principal granted by the terms of the trust or this act, including the power to adjust under section 7, and amendments thereto, convert an income trust to a unitrust under section 10(a)(1), and amendments thereto, change the percentage or method used to calculate a unitrust amount under section 10(a)(2), and amendments thereto, or convert a unitrust to an income trust under section 10(a)(3), and amendments thereto; or

(3) the fiduciary's implementation of a decision described in paragraph (1) or (2).

(b) The court may not order a fiduciary to change a fiduciary decision unless the court determines that the fiduciary decision was an abuse of the fiduciary's discretion.

(c) If the court determines that a fiduciary decision was an abuse of the fiduciary's discretion, the court may order a remedy authorized by law, including K.S.A. 58a-1001, and amendments thereto. To place the beneficiaries in the positions the beneficiaries would have occupied if there had not been an abuse of the fiduciary's discretion, the court may order:

(1) The fiduciary to exercise or refrain from exercising the power to adjust under section 7, and amendments thereto;

(2) the fiduciary to exercise or refrain from exercising the power to convert an income trust to a unitrust under section 10(a)(1), and amendments thereto, change the percentage or method used to calculate a unitrust amount under section 10(a)(2), and amendments thereto, or convert a unitrust to an income trust under section 10(a)(3), and amendments thereto;

(3) the fiduciary to distribute an amount to a beneficiary;

(4) a beneficiary to return some or all of a distribution; or

(5) the fiduciary to withhold an amount from one or more future distributions to a beneficiary.

(d) On petition by a fiduciary for instruction, the court may determine whether a proposed fiduciary decision will result in an abuse of the fiduciary's discretion. If the petition describes the proposed decision, contains sufficient information to inform the beneficiary of the reasons for making the proposed decision and the facts on which the fiduciary relies, and explains how the beneficiary will be affected by the proposed decision, a beneficiary that opposes the proposed decision has the burden to establish that it will result in an abuse of the fiduciary's discretion. If a fiduciary chooses not to seek court instruction about a proposed decision under this

subsection, that choice shall not constitute evidence that the fiduciary's decision was an abuse of discretion.

New Sec. 7. (a) Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to administer the trust or estate impartially.

(b) This section does not create a duty to exercise or consider the power to adjust under subsection (a) or to inform a beneficiary about the applicability of this section.

(c) A fiduciary that in good faith exercises or fails to exercise the power to adjust under subsection (a) is not liable to a person affected by the exercise or failure to exercise.

(d) In deciding whether and to what extent to exercise the power to adjust under subsection (a), a fiduciary shall consider all factors the fiduciary considers relevant, including relevant factors in section 5(e), and amendments thereto, and the application of sections 17(i), 24 and 29, and amendments thereto.

(e) A fiduciary may not exercise the power under subsection (a) to make an adjustment or under section 24, and amendments thereto, to make a determination that an allocation is insubstantial if:

(1) The adjustment or determination would reduce the amount payable to a current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;

(2) the adjustment or determination would change the amount payable to a beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the terms of the trust;

(3) the adjustment or determination would reduce an amount that is permanently set aside for a charitable purpose under the terms of the trust, unless both income and principal are set aside for the charitable purpose;

(4) possessing or exercising the power would cause a person to be treated as the owner of all or part of the trust for federal income tax purposes;

(5) possessing or exercising the power would cause all or part of the value of the trust assets to be included in the gross estate of an individual for federal estate tax purposes;

(6) possessing or exercising the power would cause an individual to be treated as making a gift for federal gift tax purposes;

(7) the fiduciary is not an independent person;

(8) the trust is irrevocable and provides for income to be paid to the settlor and possessing or exercising the power would cause the adjusted

principal or income to be considered an available resource or available income under a public-benefit program; or

(9) the trust is a unitrust under sections 8 through 16, and amendments thereto.

(f) If subsection (e)(4), (5), (6) or (7) applies to a fiduciary:

(1) A co-fiduciary to which subsections (e)(4) through (7) do not apply may exercise the power to adjust, unless the exercise of the power by the remaining co-fiduciary or co-fiduciaries is not permitted by the terms of the trust or law other than this act; or

(2) if there is no co-fiduciary to which subsections (e)(4) through (7) do not apply, the fiduciary may appoint a co-fiduciary to which subsections (e)(4) through (7) do not apply, which may be a special fiduciary with limited powers, and the appointed co-fiduciary may exercise the power to adjust under subsection (a), unless the appointment of a co-fiduciary or the exercise of the power by a co-fiduciary is not permitted by the terms of the trust or law other than this act.

(g) A fiduciary may release or delegate to a co-fiduciary the power to adjust under subsection (a) if the fiduciary determines that the fiduciary's possession or exercise of the power will or may:

(1) Cause a result described in subsection (e)(1) through (6) or (8); or

(2) deprive the trust of a tax benefit or impose a tax burden not described in subsection (e)(1) through (6).

(h) A fiduciary's release or delegation to a co-fiduciary under subsection (g) of the power to adjust under subsection (a):

(1) Must be in a record;

(2) applies to the entire power, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(A) From income to principal;

(B) from principal to income;

(C) for specified property; or

(D) in specified circumstances;

(3) for a delegation, may be modified by a re-delegation under this subsection by the co-fiduciary to which the delegation is made; and

(4) subject to paragraph (3), is permanent, unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

(i) Terms of a trust which deny or limit the power to adjust between income and principal do not affect the application of this section, unless the terms of the trust expressly deny or limit the power to adjust under subsection (a).

(j) The exercise of the power to adjust under subsection (a) in any accounting period may apply to the current period, the immediately preceding period, and one or more subsequent periods.

(k) A description of the exercise of the power to adjust under subsection (a) must be:

(1) Included in a report, if any, sent to beneficiaries under K.S.A. 58a-813, and amendments thereto; or

(2) communicated at least annually to the qualified beneficiaries determined under K.S.A. 58a-103(12), and amendments thereto, other than the attorney general.

New Sec. 8. In sections 8 through 16, and amendments thereto:

(a) "Applicable value" means the amount of the net fair market value of a trust taken into account under section 14, and amendments thereto.

(b) "Express unitrust" means a trust for which, under the terms of the trust without regard to sections 8 through 16, and amendments thereto, income or net income must or may be calculated as a unitrust amount.

(c) "Income trust" means a trust that is not a unitrust.

(d) "Net fair market value of a trust" means the fair market value of the assets of the trust, less the noncontingent liabilities of the trust.

(e) "Unitrust" means a trust for which net income is a unitrust amount. The term includes an express unitrust.

(f) "Unitrust amount" means an amount computed by multiplying a determined value of a trust by a determined percentage. For a unitrust administered under a unitrust policy, the term means the applicable value, multiplied by the unitrust rate.

(g) "Unitrust policy" means a policy described in sections 12 through 16, and amendments thereto, and adopted under section 10, and amendments thereto.

(h) "Unitrust rate" means the rate used to compute the unitrust amount under subsection (f) for a unitrust administered under a unitrust policy.

New Sec. 9. (a) Except as otherwise provided in subsection (b), sections 8 through 16, and amendments thereto, apply to:

(1) An income trust, unless the terms of the trust expressly prohibit use of sections 8 through 16, and amendments thereto, by a specific reference to sections 8 through 16, and amendments thereto, or an explicit expression of intent that net income not be calculated as a unitrust amount; and

(2) an express unitrust, except to the extent the terms of the trust explicitly:

(A) Prohibit use of sections 8 through 16, and amendments thereto, by a specific reference to sections 8 through 16, and amendments thereto;

(B) prohibit conversion to an income trust; or

(C) limit changes to the method of calculating the unitrust amount.

(b) Sections 8 through 16, and amendments thereto, do not apply to a trust described in section 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3)(A)(ii) or (iii) or 2702(b) of the internal revenue code of 1986, 26 U.S.C. § 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3)(A)(ii) or (iii) or 2702(b).

(c) An income trust to which sections 8 through 16, and amendments thereto, apply under subsection (a)(1) may be converted to a unitrust under sections 8 through 16, and amendments thereto, regardless of the terms of the trust concerning distributions. Conversion to a unitrust under sections 8 through 16, and amendments thereto, does not affect other terms of the trust concerning distributions of income or principal.

(d) Sections 8 through 16, and amendments thereto, apply to an estate only to the extent a trust is a beneficiary of the estate. To the extent of the trust's interest in the estate, the estate may be administered as a unitrust, the administration of the estate as a unitrust may be discontinued, or the percentage or method used to calculate the unitrust amount may be changed, in the same manner as for a trust under sections 8 through 16, and amendments thereto.

(e) Sections 8 through 16, and amendments thereto, do not create a duty to take or consider action under sections 8 through 16, and amendments thereto, or to inform a beneficiary about the applicability of sections 8 through 16, and amendments thereto.

(f) A fiduciary that in good faith takes or fails to take an action under sections 8 through 16, and amendments thereto, is not liable to a person affected by the action or inaction.

New Sec. 10. (a) A fiduciary, without court approval, by complying with subsections (b) and (f), may:

(1) Convert an income trust to a unitrust if the fiduciary adopts in a record a unitrust policy for the trust providing:

(A) That in administering the trust the net income of the trust will be a unitrust amount rather than net income determined without regard to sections 8 through 16, and amendments thereto; and

(B) the percentage and method used to calculate the unitrust amount;

(2) change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(3) convert a unitrust to an income trust if the fiduciary adopts in a record a determination that, in administering the trust, the net income of the trust will be net income determined without regard to sections 8 through 16, and amendments thereto, rather than a unitrust amount.

(b) A fiduciary may take an action under subsection (a) if:

(1) The fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(2) the fiduciary sends a notice in a record, in the manner required by section 11, and amendments thereto, describing and proposing to take the action;

(3) the fiduciary sends a copy of the notice under paragraph (2) to each settlor of the trust which is:

(A) If an individual, living; or

(B) if not an individual, in existence;

(4) at least one member of each class of the qualified beneficiaries determined under K.S.A. 58a-103(12), and amendments thereto, other than the attorney general, receiving the notice under paragraph (2) is:

(A) If an individual, legally competent;

(B) if not an individual, in existence; or

(C) represented in the manner provided in section 11(b), and amendments thereto; and

(5) the fiduciary does not receive, by the date specified in the notice under section 11(d)(5), and amendments thereto, an objection in a record to the action proposed under paragraph (2) from a person to which the notice under paragraph (2) is sent.

(c) If a fiduciary receives, not later than the date stated in the notice under section 11(d)(5), and amendments thereto, an objection in a record described in section 11(d)(4), and amendments thereto, to a proposed action, the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications or prevented. A person described in section 11(a), and amendments thereto, may oppose the proposed action in the proceeding under this subsection, whether or not the person:

(1) Consented under section 11(c), and amendments thereto; or

(2) objected under section 11(d)(4), and amendments thereto.

(d) If, after sending a notice under subsection (b)(2), a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify in a record each person described in section 11(a), and amendments thereto, of the decision not to take the action and the reasons for the decision.

(e) If a beneficiary requests in a record that a fiduciary take an action described in subsection (a) and the fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(f) In deciding whether and how to take an action authorized by subsection (a), or whether and how to respond to a request by a beneficiary under subsection (e), a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including relevant factors in section 5(e), and amendments thereto.

(g) A fiduciary may release or delegate the power to convert an income trust to a unitrust under subsection (a)(1), change the percentage or method used to calculate a unitrust amount under subsection (a)(2), or convert a unitrust to an income trust under subsection (a)(3), for a reason described in section 7(g), and amendments thereto, and in the manner described in section 7(h), and amendments thereto.

New Sec. 11. (a) A notice required by section 10(b)(2), and amendments thereto, must be sent in a manner authorized under K.S.A. 58a-109, and amendments thereto, to:

(1) The qualified beneficiaries determined under K.S.A. 58a-103(12), and amendments thereto, other than the attorney general; and

(2) each person that is granted a power over the trust by the terms of the trust, to the extent the power is exercisable when the person is not then serving as a trustee:

(A) Including a:

(i) Power over the investment, management or distribution of trust property or other matters of trust administration; and

(ii) power to appoint or remove a trustee or person described in this paragraph; and

(B) excluding a:

(i) Power of appointment;

(ii) power of a beneficiary over the trust, to the extent the exercise or nonexercise of the power affects the beneficial interest of the beneficiary or another beneficiary represented by the beneficiary under K.S.A. 58a-301 through 58a-305, and amendments thereto, with respect to the exercise or nonexercise of the power; and

(iii) power over the trust if the terms of the trust provide that the power is held in a nonfiduciary capacity and the power must be held in a nonfiduciary capacity to achieve a tax objective under the internal revenue code of 1986.

(b) The representation provisions of K.S.A. 58a-301 through 58a-305, and amendments thereto, apply to notice under this section.

(c) A person may consent in a record at any time to action proposed under section 10(b)(2), and amendments thereto. A notice required by section 10(b)(2), and amendments thereto, need not be sent to a person that consents under this subsection.

(d) A notice required by section 10(b)(2), and amendments thereto, must include:

(1) The action proposed under section 10(b)(2) and amendments thereto;

(2) for a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under section 10(a)(1), and amendments thereto;

(3) for a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or replacement of the unitrust policy adopted under section 10(a)(2), and amendments thereto;

(4) a statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(5) the date by which an objection under paragraph (4) must be received by the fiduciary, which must be at least 30 days after the date the notice is sent;

(6) the date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(7) the name and contact information of the fiduciary; and

(8) the name and contact information of a person that may be contacted for additional information.

New Sec. 12. (a) In administering a unitrust under sections 8 through 16, and amendments thereto, a fiduciary shall follow a unitrust policy adopted under section 10(a)(1) or (2), and amendments thereto, or amended or replaced under section 10(a)(2), and amendments thereto.

(b) A unitrust policy must provide:

(1) The unitrust rate or the method for determining the unitrust rate under section 13, and amendments thereto;

(2) the method for determining the applicable value under section 14, and amendments thereto; and

(3) the rules described in sections 13 through 16, and amendments thereto, that apply in the administration of the unitrust, whether the rules are:

(A) Mandatory, as provided in sections 14(a) and 15(a), and amendments thereto; or

(B) optional, as provided in sections 13, 14(b), 15(b) and 16(a), and amendments thereto, to the extent the fiduciary elects to adopt those rules.

New Sec. 13. (a) Except as otherwise provided in section 16(b)(1), and amendments thereto, a unitrust rate may be:

(1) A fixed unitrust rate; or

(2) a unitrust rate that is determined for each period using:

(A) A market index or other published data; or

(B) a mathematical blend of market indices or other published data over a stated number of preceding periods.

(b) Except as otherwise provided in section 16(b)(1), and amendments thereto, a unitrust policy may provide:

(1) A limit on how high the unitrust rate determined under subsection (a)(2) may rise;

(2) a limit on how low the unitrust rate determined under subsection (a)(2) may fall;

(3) a limit on how much the unitrust rate determined under subsection (a)(2) may increase over the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods;

(4) a limit on how much the unitrust rate determined under subsection (a)(2) may decrease below the unitrust rate for the preceding period

or a mathematical blend of unitrust rates over a stated number of preceding periods; or

(5) a mathematical blend of any of the unitrust rates determined under subsection (a)(2) and paragraphs (1) through (4).

New Sec. 14. (a) A unitrust policy must provide the method for determining the fair market value of an asset for the purpose of determining the unitrust amount, including:

(1) The frequency of valuing the asset, which need not require a valuation in every period; and

(2) the date for valuing the asset in each period in which the asset is valued.

(b) Except as otherwise provided in section 16(b)(2), and amendments thereto, a unitrust policy may provide methods for determining the amount of the net fair market value of the trust to take into account in determining the applicable value, including:

(1) Obtaining an appraisal of an asset for which fair market value is not readily available;

(2) exclusion of specific assets or groups or types of assets;

(3) other exceptions or modifications of the treatment of specific assets or groups or types of assets;

(4) identification and treatment of cash or property held for distribution;

(5) use of:

(A) An average of fair market values over a stated number of preceding periods; or

(B) another mathematical blend of fair market values over a stated number of preceding periods;

(6) a limit on how much the applicable value of all assets, groups of assets, or individual assets may increase over:

(A) The corresponding applicable value for the preceding period; or

(B) a mathematical blend of applicable values over a stated number of preceding periods;

(7) a limit on how much the applicable value of all assets, groups of assets, or individual assets may decrease below:

(A) The corresponding applicable value for the preceding period; or

(B) a mathematical blend of applicable values over a stated number of preceding periods;

(8) the treatment of accrued income and other features of an asset that affect value; and

(9) determining the liabilities of the trust, including treatment of liabilities to conform with the treatment of assets under paragraphs (1) through (8).

New Sec. 15. (a) A unitrust policy must provide the period used under sections 13 and 14, and amendments thereto. Except as otherwise provided in section 16(b)(3), and amendments thereto, the period may be:

(1) A calendar year;
(2) a 12-month period other than a calendar year;
(3) a calendar quarter;
(4) a three-month period other than a calendar quarter; or
(5) another period.

(b) Except as otherwise provided in section 16(b), and amendments thereto, a unitrust policy may provide standards for:

(1) Using fewer preceding periods under section 13(a)(2)(B), (b)(3) or (b)(4), and amendments thereto, if:

(A) The trust was not in existence in a preceding period; or

(B) market indices or other published data are not available for a preceding period;

(2) using fewer preceding periods under section 14(b)(5)(A) or (B), (6)(B) or (7)(B), and amendments thereto, if:

(A) The trust was not in existence in a preceding period; or

(B) fair market values are not available for a preceding period; and

(3) prorating the unitrust amount on a daily basis for a part of a period in which the trust or the administration of the trust as a unitrust or the interest of any beneficiary commences or terminates.

New Sec. 16. (a) A unitrust policy may:

(1) Provide methods and standards for:

(A) Determining the timing of distributions;

(B) making distributions in cash or in kind or partly in cash and partly in kind; or

(C) correcting an underpayment or overpayment to a beneficiary based on the unitrust amount if there is an error in calculating the unitrust amount;

(2) specify sources and the order of sources, including categories of income for federal income tax purposes, from which distributions of a unitrust amount are paid; or

(3) provide other standards and rules the fiduciary determines serve the interests of the beneficiaries.

(b) If a trust qualifies for a special tax benefit or a fiduciary is not an independent person:

(1) The unitrust rate established under section 13, and amendments thereto, may not be less than 3% or more than 5%;

(2) the only provisions of section 14 that apply are section 14(a) and (b)(1), (4), (5)(A) and (9), and amendments thereto;

(3) the only period that may be used under section 15 is a calendar year under section 15(a)(1), and amendments thereto; and

(4) the only other provisions of section 15 that apply are section 15(b)(2)(A) and (3), and amendments thereto.

New Sec. 17. (a) In this section:

(1) "Capital distribution" means an entity distribution of money which is a:

(A) Return of capital; or

(B) distribution in total or partial liquidation of the entity.

(2) "Entity":

(A) Means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund or any other organization or arrangement in which a fiduciary owns or holds an interest, whether or not the entity is a taxpayer for federal income tax purposes; and

(B) does not include:

(i) A trust or estate to which section 18, and amendments thereto, applies;

(ii) a business or other activity to which section 19, and amendments thereto, applies which is not conducted by an entity described in subparagraph (A);

(iii) an asset-backed security; or

(iv) an instrument or arrangement to which section 32, and amendments thereto, applies.

(3) "Entity distribution" means a payment or transfer by an entity made to a person in the person's capacity as an owner or holder of an interest in the entity.

(b) In this section, an attribute or action of an entity includes an attribute or action of any other entity in which the entity owns or holds an interest, including an interest owned or held indirectly through another entity.

(c) Except as otherwise provided in subsections (d)(2) through (4), a fiduciary shall allocate to income:

(1) Money received in an entity distribution; and

(2) tangible personal property of nominal value received from the entity.

(d) A fiduciary shall allocate to principal:

(1) Property received in an entity distribution which is not:

(A) Money; or

(B) tangible personal property of nominal value;

(2) money received in an entity distribution in an exchange for part or all of the fiduciary's interest in the entity, to the extent the entity distribution reduces the fiduciary's interest in the entity relative to the interests of other persons that own or hold interests in the entity;

(3) money received in an entity distribution that the fiduciary determines or estimates is a capital distribution; and

(4) money received in an entity distribution from an entity that is:

(A) A regulated investment company or real estate investment trust if the money received is a capital gain dividend for federal income tax purposes; or

(B) treated for federal income tax purposes comparably to the treatment described in subparagraph (A).

(e) A fiduciary may determine or estimate that money received in an entity distribution is a capital distribution:

(1) By relying without inquiry or investigation on a characterization of the entity distribution provided by or on behalf of the entity, unless the fiduciary:

(A) Determines, on the basis of information known to the fiduciary, that the characterization is or may be incorrect; or

(B) owns or holds more than 50% of the voting interest in the entity;

(2) by determining or estimating, on the basis of information known to the fiduciary or provided to the fiduciary by or on behalf of the entity, that the total amount of money and property received by the fiduciary in the entity distribution or a series of related entity distributions is or will be greater than 20% of the fair market value of the fiduciary's interest in the entity; or

(3) if neither paragraph (1) nor (2) applies, by considering the factors in subsection (f) and the information known to the fiduciary or provided to the fiduciary by or on behalf of the entity.

(f) In making a determination or estimate under subsection (e)(3), a fiduciary may consider:

(1) A characterization of an entity distribution provided by or on behalf of the entity;

(2) the amount of money or property received in:

(A) The entity distribution; or

(B) what the fiduciary determines is or will be a series of related entity distributions;

(3) the amount described in paragraph (2) compared to the amount the fiduciary determines or estimates is, during the current or preceding accounting periods:

(A) The entity's operating income;

(B) the proceeds of the entity's sale or other disposition of:

(i) All or part of the business or other activity conducted by the entity;

(ii) one or more business assets that are not sold to customers in the ordinary course of the business or other activity conducted by the entity; or

(iii) one or more assets other than business assets, unless the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets;

(C) if the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets, the gain realized on the disposition;

(D) the entity's regular, periodic entity distributions;

(E) the amount of money the entity has accumulated;

(F) the amount of money the entity has borrowed;

(G) the amount of money the entity has received from the sources described in sections 23, 26, 27 and 28, and amendments thereto; and

(H) the amount of money the entity has received from a source not otherwise described in this paragraph; and

(4) any other factor the fiduciary determines is relevant.

(g) If, after applying subsections (c) through (f), a fiduciary determines that a part of an entity distribution is a capital distribution but is in doubt about the amount of the entity distribution which is a capital distribution, the fiduciary shall allocate to principal the amount of the entity distribution which is in doubt.

(h) If a fiduciary receives additional information about the application of this section to an entity distribution before the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary may consider the additional information before making the payment to the beneficiary and may change a decision to make the payment to the beneficiary.

(i) If a fiduciary receives additional information about the application of this section to an entity distribution after the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary is not required to change or recover the payment to the beneficiary but may consider that information in determining whether to exercise the power to adjust under section 7, and amendments thereto.

New Sec. 18. A fiduciary shall allocate to income an amount received as a distribution of income, including a unitrust distribution under sections 8 through 16, and amendments thereto, from a trust or estate in which the fiduciary has an interest, other than an interest the fiduciary purchased in a trust that is an investment entity, and shall allocate to principal an amount received as a distribution of principal from the trust or estate. If a fiduciary purchases, or receives from a settlor, an interest in a trust that is an investment entity, section 17, 31 or 32, and amendments thereto, applies to a receipt from the trust.

New Sec. 19. (a) This section applies to a business or other activity conducted by a fiduciary if the fiduciary determines that it is in the interests of the beneficiaries to account separately for the business or other activity instead of:

(1) Accounting for the business or other activity as part of the fiduciary's general accounting records; or

(2) conducting the business or other activity through an entity described in section 17(a)(2)(A), and amendments thereto.

(b) A fiduciary may account separately under this section for the transactions of a business or other activity, whether or not assets of the business or other activity are segregated from other assets held by the fiduciary.

(c) A fiduciary that accounts separately under this section for a business or other activity:

(1) May determine:

(A) The extent to which the net cash receipts of the business or other activity must be retained for:

(i) Working capital;

(ii) the acquisition or replacement of fixed assets; and

(iii) other reasonably foreseeable needs of the business or other activity; and

(B) the extent to which the remaining net cash receipts are accounted for as principal or income in the fiduciary's general accounting records for the trust;

(2) may make a determination under paragraph (1) separately and differently from the fiduciary's decisions concerning distributions of income or principal; and

(3) shall account for the net amount received from the sale of an asset of the business or other activity, other than a sale in the ordinary course of the business or other activity, as principal in the fiduciary's general accounting records for the trust, to the extent the fiduciary determines that the net amount received is no longer required in the conduct of the business or other activity.

(d) Activities for which a fiduciary may account separately under this section include:

(1) Retail, manufacturing, service and other traditional business activities;

(2) farming;

(3) raising and selling livestock and other animals;

(4) managing rental properties;

(5) extracting minerals, water and other natural resources;

(6) growing and cutting timber;

(7) an activity to which section 30, 31 or 32, and amendments thereto, applies; and

(8) any other business conducted by the fiduciary.

New Sec. 20. A fiduciary shall allocate to principal:

(a) To the extent not allocated to income under this act, an asset received from:

(1) An individual during the individual's lifetime;

(2) an estate;

(3) a trust on termination of an income interest; or

(4) a payor under a contract naming the fiduciary as beneficiary;

(b) except as otherwise provided in sections 17 through 32, and amendments thereto, money or other property received from the sale, exchange, liquidation or change in form of a principal asset;

(c) an amount recovered from a third party to reimburse the fiduciary because of a disbursement described in section 34(a), and amendments thereto, or for another reason to the extent not based on loss of income;

(d) proceeds of property taken by eminent domain, except that proceeds awarded for loss of income in an accounting period are income if a current income beneficiary had a mandatory income interest during the period;

(e) net income received in an accounting period during which there is no beneficiary to which a fiduciary may or must distribute income; and

(f) other receipts as provided in sections 24 through 32, and amendments thereto.

New Sec. 21. To the extent a fiduciary does not account for the management of rental property as a business under section 19, and amendments thereto, the fiduciary shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods:

(a) Must be added to principal and held subject to the terms of the lease, except as otherwise provided by law other than this act; and

(b) is not allocated to income or available for distribution to a beneficiary until the fiduciary's contractual obligations have been satisfied with respect to that amount.

New Sec. 22. (a) This section does not apply to an obligation to which section 25, 26, 27, 28, 30, 31 or 32, and amendments thereto, applies.

(b) A fiduciary shall allocate to income, without provision for amortization of premium, an amount received as interest on an obligation to pay money to the fiduciary, including an amount received as consideration for prepaying principal.

(c) A fiduciary shall allocate to principal an amount received from the sale, redemption or other disposition of an obligation to pay money to the fiduciary. A fiduciary shall allocate to income the increment in value of a bond or other obligation for the payment of money bearing no stated interest but payable or redeemable, at maturity or another future time, in an amount that exceeds the amount in consideration of which it was issued.

New Sec. 23. (a) This section does not apply to a contract to which section 25, and amendments thereto, applies.

(b) Except as otherwise provided in subsection (c), a fiduciary shall allocate to principal the proceeds of a life insurance policy or other contract received by the fiduciary as beneficiary, including a contract that insures against damage to, destruction of or loss of title to an asset. The

fiduciary shall allocate dividends on an insurance policy to income to the extent premiums on the policy are paid from income and to principal to the extent premiums on the policy are paid from principal.

(c) A fiduciary shall allocate to income proceeds of a contract that insures the fiduciary against loss of:

(1) Occupancy or other use by a current income beneficiary;

(2) income; or

(3) subject to section 19, and amendments thereto, profits from a business.

New Sec. 24. (a) If a fiduciary determines that an allocation between income and principal required by section 25, 26, 27, 28 or 31, and amendments thereto, is insubstantial, the fiduciary may allocate the entire amount to principal, unless section 7(e), and amendments thereto, applies to the allocation.

(b) A fiduciary may presume an allocation is insubstantial under subsection (a) if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10%; and

(2) the asset producing the receipt to be allocated has a fair market value less than 10% of the total fair market value of the assets owned or held by the fiduciary at the beginning of the accounting period.

(c) The power to make a determination under subsection (a) may be:

(1) Exercised by a co-fiduciary in the manner described in section 7(f), and amendments thereto; or

(2) released or delegated for a reason described in section 7(g), and amendments thereto, and in the manner described in section 7(h), and amendments thereto.

New Sec. 25. (a) In this section:

(1) "Internal income of a separate fund" means the amount determined under subsection (b).

(2) "Marital trust" means a trust:

(A) Of which the settlor's surviving spouse is the only current income beneficiary and is entitled to a distribution of all the current net income of the trust; and

(B) that qualifies for a marital deduction with respect to the settlor's estate under section 2056 of the internal revenue code of 1986, 26 U.S.C. § 2056, because:

(i) An election to qualify for a marital deduction under section 2056(b)(7) of the internal revenue code of 1986, 26 U.S.C. § 2056(b)(7), has been made; or

(ii) the trust qualifies for a marital deduction under section 2056(b)(5) of the internal revenue code of 1986, 26 U.S.C. § 2056(b)(5).

(3) "Payment" means an amount a fiduciary may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future amounts the fiduciary may receive. The term includes an amount received in money or property from the payor's general assets or from a separate fund created by the payor.

(4) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus or stock-ownership plan.

(b) For each accounting period, the following rules apply to a separate fund:

(1) The fiduciary shall determine the internal income of the separate fund as if the separate fund were a trust subject to this act.

(2) If the fiduciary cannot determine the internal income of the separate fund under paragraph (1), the internal income of the separate fund is deemed to equal 4% of the value of the separate fund, according to the most recent statement of value preceding the beginning of the accounting period.

(3) If the fiduciary cannot determine the value of the separate fund under paragraph (2), the value of the separate fund is deemed to equal the present value of the expected future payments, as determined under section 7520 of the internal revenue code of 1986, 26 U.S.C. § 7520, for the month preceding the beginning of the accounting period for which the computation is made.

(c) A fiduciary shall allocate a payment received from a separate fund during an accounting period to income, to the extent of the internal income of the separate fund during the period, and the balance to principal.

(d) The fiduciary of a marital trust shall:

(1) Withdraw from a separate fund the amount the current income beneficiary of the trust requests the fiduciary to withdraw, not greater than the amount by which the internal income of the separate fund during the accounting period exceeds the amount the fiduciary otherwise receives from the separate fund during the period;

(2) transfer from principal to income the amount the current income beneficiary requests the fiduciary to transfer, not greater than the amount by which the internal income of the separate fund during the period exceeds the amount the fiduciary receives from the separate fund during the period after the application of paragraph (1); and

(3) distribute to the current income beneficiary as income:

(A) The amount of the internal income of the separate fund received or withdrawn during the period; and

(B) the amount transferred from principal to income under paragraph (2).

(e) For a trust, other than a marital trust, of which one or more current income beneficiaries are entitled to a distribution of all the current net income, the fiduciary shall transfer from principal to income the amount by which the internal income of a separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the period.

New Sec. 26. (a) In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a limited time. The term includes a leasehold, patent, copyright, royalty right and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance.

(b) This section does not apply to a receipt subject to section 17, 25, 27, 28, 30, 31, 32 or 35, and amendments thereto.

(c) A fiduciary shall allocate:

(1) To income:

(A) A receipt produced by a liquidating asset, to the extent the receipt does not exceed 4% of the value of the asset; or

(B) if the fiduciary cannot determine the value of the asset, 10% of the receipt; and

(2) to principal, the balance of the receipt.

New Sec. 27. (a) To the extent a fiduciary does not account for a receipt from an interest in minerals, water or other natural resources as a business under section 19, and amendments thereto, the fiduciary shall allocate the receipt:

(1) To income, to the extent received:

(A) As delay rental or annual rent on a lease;

(B) as a factor for interest or the equivalent of interest under an agreement creating a production payment; or

(C) on account of an interest in renewable water;

(2) to principal, if received from a production payment, to the extent paragraph (1)(B) does not apply; or

(3) between income and principal equitably, to the extent received:

(A) On account of an interest in non-renewable water;

(B) as a royalty, shut-in-well payment, take-or-pay payment or bonus; or

(C) from a working interest or any other interest not provided for in paragraph (1) or (2) or subparagraph (A) or (B).

(b) This section applies to an interest owned or held by a fiduciary whether or not a settlor was extracting minerals, water or other natural resources before the fiduciary owned or held the interest.

(c) An allocation of a receipt under subsection (a)(3) is presumed to be equitable if the amount allocated to principal is equal to the amount

allowed by the internal revenue code of 1986 as a deduction for depletion of the interest.

(d) If a fiduciary owns or holds an interest in minerals, water or other natural resources before July 1, 2021, the fiduciary may allocate receipts from the interest as provided in this section or in the manner used by the fiduciary before July 1, 2021. If the fiduciary acquires an interest in minerals, water or other natural resources on or after July 1, 2021, the fiduciary shall allocate receipts from the interest as provided in this section.

New Sec. 28. (a) To the extent a fiduciary does not account for receipts from the sale of timber and related products as a business under section 19, and amendments thereto, the fiduciary shall allocate the net receipts:

(1) To income, to the extent the amount of timber cut from the land does not exceed the rate of growth of the timber;

(2) to principal, to the extent the amount of timber cut from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(3) between income and principal if the net receipts are from the lease of land used for growing and cutting timber or from a contract to cut timber from land, by determining the amount of timber cut from the land under the lease or contract and applying the rules in paragraphs (1) and (2); or

(4) to principal, to the extent advance payments, bonuses and other payments are not allocated under paragraph (1), (2) or (3).

(b) In determining net receipts to be allocated under subsection (a), a fiduciary shall deduct and transfer to principal a reasonable amount for depletion.

(c) This section applies to land owned or held by a fiduciary whether or not a settlor was cutting timber from the land before the fiduciary owned or held the property.

(d) If a fiduciary owns or holds an interest in land used for growing and cutting timber before July 1, 2021, the fiduciary may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the fiduciary before July 1, 2021. If the fiduciary acquires an interest in land used for growing and cutting timber on or after July 1, 2021, the fiduciary shall allocate net receipts from the sale of timber and related products as provided in this section.

New Sec. 29. (a) If a trust received property for which a gift or estate tax marital deduction was allowed and the settlor's spouse holds a mandatory income interest in the trust, the spouse may require the trustee, to the extent the trust assets otherwise do not provide the spouse with sufficient income from or use of the trust assets to qualify for the deduction, to:

(1) Make property productive of income;

(2) convert property to property productive of income within a reasonable time; or

(3) exercise the power to adjust under section 7, and amendments thereto.

(b) The trustee may decide which action or combination of actions in subsection (a) to take.

New Sec. 30. (a) In this section, "derivative" means a contract, instrument, other arrangement or combination of contracts, instruments or other arrangements, the value, rights and obligations of which are, in whole or in part, dependent on or derived from an underlying tangible or intangible asset, group of tangible or intangible assets, index or occurrence of an event. The term includes stocks, fixed income securities and financial instruments and arrangements based on indices, commodities, interest rates, weather-related events and credit-default events.

(b) To the extent a fiduciary does not account for a transaction in derivatives as a business under section 19, and amendments thereto, the fiduciary shall allocate 10% of receipts from the transaction and 10% of disbursements made in connection with the transaction to income and the balance to principal.

(c) Subsection (d) applies if:

(1) A fiduciary:

(A) Grants an option to buy property from a trust, whether or not the trust owns the property when the option is granted;

(B) grants an option that permits another person to sell property to the trust; or

(C) acquires an option to buy property for the trust or an option to sell an asset owned by the trust; and

(2) the fiduciary or other owner of the asset is required to deliver the asset if the option is exercised.

(d) If this subsection applies, the fiduciary shall allocate 10% to income and the balance to principal of the following amounts:

(1) An amount received for granting the option;

(2) an amount paid to acquire the option; and

(3) gain or loss realized on the exercise, exchange, settlement, offset, closing or expiration of the option.

New Sec. 31. (a) Except as otherwise provided in subsection (b), a fiduciary shall allocate to income a receipt from or related to an asset-backed security, to the extent the payor identifies the payment as being from interest or other current return, and to principal the balance of the receipt.

(b) If a fiduciary receives one or more payments in exchange for part or all of the fiduciary's interest in an asset-backed security, including a

liquidation or redemption of the fiduciary's interest in the security, the fiduciary shall allocate to income 10% of receipts from the transaction and 10% of disbursements made in connection with the transaction, and to principal the balance of the receipts and disbursements.

New Sec. 32. A fiduciary shall allocate receipts from or related to a financial instrument or arrangement not otherwise addressed by this act. The allocation must be consistent with sections 30 and 31, and amendments thereto.

New Sec. 33. Subject to section 36, and amendments thereto, and except as otherwise provided in section 40(c)(2) or (3), and amendments thereto, a fiduciary shall disburse from income:

(a) One-half of:

(1) The regular compensation of the fiduciary and any person providing investment advisory, custodial or other services to the fiduciary, to the extent income is sufficient; and

(2) an expense for an accounting, judicial or nonjudicial proceeding or other matter that involves both income and successive interests, to the extent income is sufficient;

(b) the balance of the disbursements described in subsection (a), to the extent a fiduciary that is an independent person determines that making those disbursements from income would be in the interests of the beneficiaries;

(c) another ordinary expense incurred in connection with administration, management or preservation of property and distribution of income, including interest, an ordinary repair, regularly recurring tax assessed against principal and an expense of an accounting, judicial or nonjudicial proceeding or other matter that involves primarily an income interest, to the extent income is sufficient; and

(d) a premium on insurance covering loss of a principal asset or income from or use of the asset.

New Sec. 34. (a) Subject to section 37, and amendments thereto, and except as otherwise provided in section 40(c)(2), and amendments thereto, a fiduciary shall disburse from principal:

(1) The balance of the disbursements described in section 33(a) and (c), and amendments thereto, after application of section 33(b), and amendments thereto;

(2) the fiduciary's compensation calculated on principal as a fee for acceptance, distribution or termination;

(3) a payment of an expense to prepare for or execute a sale or other disposition of property;

(4) a payment on the principal of a trust debt;

(5) a payment of an expense of an accounting, judicial or nonjudicial

proceeding or other matter that involves primarily principal, including a proceeding to construe the terms of the trust or protect property;

(6) a payment of a premium for insurance, including title insurance, not described in section 33(d), and amendments thereto, of which the fiduciary is the owner and beneficiary;

(7) a payment of an estate or inheritance tax or other tax imposed because of the death of a decedent, including penalties, apportioned to the trust; and

(8) a payment:

(A) Related to environmental matters, including:

(i) Reclamation;

(ii) assessing environmental conditions;

(iii) remedying and removing environmental contamination;

(iv) monitoring remedial activities and the release of substances;

(v) preventing future releases of substances;

(vi) collecting amounts from persons liable or potentially liable for the costs of activities described in clauses (i) through (v);

(vii) penalties imposed under environmental laws or regulations;

(viii) other actions to comply with environmental laws or regulations;

(ix) statutory or common law claims by third parties; and

(x) defending claims based on environmental matters; and

(B) for a premium for insurance for matters described in subparagraph (A).

(b) If a principal asset is encumbered with an obligation that requires income from the asset to be paid directly to a creditor, the fiduciary shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

New Sec. 35. (a) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion or gradual obsolescence of a tangible asset having a useful life of more than one year.

(b) A fiduciary may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(1) Of the part of real property used or available for use by a beneficiary as a residence;

(2) of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; or

(3) under this section, to the extent the fiduciary accounts:

(A) Under section 26, and amendments thereto, for the asset; or

(B) under section 19, and amendments thereto, for the business or other activity in which the asset is used.

(c) An amount transferred to principal under this section need not be separately held.

New Sec. 36. (a) If a fiduciary makes or expects to make an income disbursement described in subsection (b), the fiduciary may transfer an appropriate amount from principal to income in one or more accounting periods to reimburse income.

(b) To the extent the fiduciary has not been and does not expect to be reimbursed by a third party, income disbursements to which subsection (a) applies include:

(1) An amount chargeable to principal but paid from income because principal is illiquid;

(2) a disbursement made to prepare property for sale, including improvements and commissions; and

(3) a disbursement described in section 34(a), and amendments thereto.

(c) If an asset whose ownership gives rise to an income disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under subsection (a).

New Sec. 37. (a) If a fiduciary makes or expects to make a principal disbursement described in subsection (b), the fiduciary may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or provide a reserve for future principal disbursements.

(b) To the extent a fiduciary has not been and does not expect to be reimbursed by a third party, principal disbursements to which subsection (a) applies include:

(1) An amount chargeable to income but paid from principal because income is not sufficient;

(2) the cost of an improvement to principal, whether a change to an existing asset or the construction of a new asset, including a special assessment;

(3) a disbursement made to prepare property for rental, including tenant allowances, leasehold improvements and commissions;

(4) a periodic payment on an obligation secured by a principal asset, to the extent the amount transferred from income to principal for depreciation is less than the periodic payment; and

(5) a disbursement described in section 34(a), and amendments thereto.

(c) If an asset whose ownership gives rise to a principal disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under subsection (a).

New Sec. 38. (a) A tax required to be paid by a fiduciary which is based on receipts allocated to income must be paid from income.

(b) A tax required to be paid by a fiduciary which is based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) Subject to subsection (d) and sections 36, 37 and 39, and amendments thereto, a tax required to be paid by a fiduciary on a share of an entity's taxable income in an accounting period must be paid from:

(1) Income and principal proportionately to the allocation between income and principal of receipts from the entity in the period; and

(2) principal to the extent the tax exceeds the receipts from the entity in the period.

(d) After applying subsections (a) through (c), a fiduciary shall adjust income or principal receipts, to the extent the taxes the fiduciary pays are reduced because of a deduction for a payment made to a beneficiary.

New Sec. 39. (a) A fiduciary may make an adjustment between income and principal to offset the shifting of economic interests or tax benefits between current income beneficiaries and successor beneficiaries which arises from:

(1) An election or decision the fiduciary makes regarding a tax matter, other than a decision to claim an income tax deduction to which subsection (b) applies;

(2) an income tax or other tax imposed on the fiduciary or a beneficiary as a result of a transaction involving the fiduciary or a distribution by the fiduciary; or

(3) ownership by the fiduciary of an interest in an entity a part of whose taxable income, whether or not distributed, is includable in the taxable income of the fiduciary or a beneficiary.

(b) If the amount of an estate tax marital or charitable deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes and, as a result, estate taxes paid from principal are increased and income taxes paid by the fiduciary or a beneficiary are decreased, the fiduciary shall charge each beneficiary that benefits from the decrease in income tax to reimburse the principal from which the increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax, to the extent the principal used to pay the increase would have qualified for a marital or charitable deduction but for the payment. The share of the reimbursement for each fiduciary or beneficiary whose income taxes are reduced must be the same as its share of the total decrease in income tax.

(c) A fiduciary that charges a beneficiary under subsection (b) may offset the charge by obtaining payment from the beneficiary, withholding an amount from future distributions to the beneficiary, or adopting another method or combination of methods.

New Sec. 40. (a) This section applies when:

(1) The death of an individual results in the creation of an estate or trust; or

(2) an income interest in a trust terminates, whether the trust continues or is distributed.

(b) A fiduciary of an estate or trust with an income interest that terminates shall determine, under subsection (g) and sections 17 through 39 and 42 through 44, and amendments thereto, the amount of net income and net principal receipts received from property specifically given to a beneficiary. The fiduciary shall distribute the net income and net principal receipts to the beneficiary that is to receive the specific property.

(c) A fiduciary shall determine the income and net income of an estate or income interest in a trust which terminates, other than the amount of net income determined under subsection (b), under sections 17 through 39 and 42 through 44, and amendments thereto, and by:

(1) Including in net income all income from property used or sold to discharge liabilities;

(2) paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants and fiduciaries, court costs and other expenses of administration, and interest on estate and inheritance taxes and other taxes imposed because of the decedent's death, but the fiduciary may pay the expenses from income of property passing to a trust for which the fiduciary claims a federal estate tax marital or charitable deduction only to the extent:

(A) The payment of the expenses from income will not cause the reduction or loss of the deduction; or

(B) the fiduciary makes an adjustment under section 39(b), and amendments thereto; and

(3) paying from principal other disbursements made or incurred in connection with the settlement of the estate or the winding up of an income interest that terminates, including:

(A) To the extent authorized by the decedent's will, the terms of the trust or applicable law, debts, funeral expenses, disposition of remains, family allowances, estate and inheritance taxes and other taxes imposed because of the decedent's death; and

(B) related penalties that are apportioned, by the decedent's will, the terms of the trust or applicable law, to the estate or income interest that terminates.

(d) If a decedent's will, the terms of a trust or applicable law provides for the payment of interest or the equivalent of interest to a beneficiary that receives a pecuniary amount outright, the fiduciary shall make the payment from net income determined under subsection (c) or from principal to the extent net income is insufficient.

(e) If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends because of an income beneficiary's death, and no payment of interest or the equivalent of interest is provided

for by the terms of the trust or applicable law, the fiduciary shall pay the interest or the equivalent of interest to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

(f) A fiduciary shall distribute net income remaining after payments required by subsections (d) and (e) in the manner described in section 41, and amendments thereto, to all other beneficiaries, including a beneficiary that receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(g) A fiduciary may not reduce principal or income receipts from property described in subsection (b) because of a payment described in section 33 or 34, and amendments thereto, to the extent the decedent's will, the terms of the trust or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property must be determined by including the amount the fiduciary receives or pays regarding the property, whether the amount accrued or became due before, on or after the date of the decedent's death or an income interest's terminating event, and making a reasonable provision for an amount the estate or income interest may become obligated to pay after the property is distributed.

New Sec. 41. (a) Except to the extent sections 8 through 16, and amendments thereto, apply for a beneficiary that is a trust, each beneficiary described in section 40(f), and amendments thereto, is entitled to receive a share of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to which this section applies, each beneficiary, including a beneficiary that does not receive part of the distribution, is entitled, as of each distribution date, to a share of the net income the fiduciary received after the decedent's death, an income interest's other terminating event or the preceding distribution by the fiduciary.

(b) In determining a beneficiary's share of net income under subsection (a), the following rules apply:

(1) The beneficiary is entitled to receive a share of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date.

(2) The beneficiary's fractional interest under paragraph (1) must be calculated:

(A) On the aggregate value of the assets as of the distribution date without reducing the value by any unpaid principal obligation; and

(B) without regard to:

(i) Property specifically given to a beneficiary under the decedent's will or the terms of the trust; and

(ii) property required to pay pecuniary amounts not in trust.

(3) The distribution date under paragraph (1) may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which the assets are distributed.

(c) To the extent a fiduciary does not distribute under this section all the collected but undistributed net income to each beneficiary as of a distribution date, the fiduciary shall maintain records showing the interest of each beneficiary in the net income.

(d) If this section applies to income from an asset, a fiduciary may apply the rules in this section to net gain or loss realized from the disposition of the asset after the decedent's death, an income interest's terminating event, or the preceding distribution by the fiduciary.

New Sec. 42. (a) An income beneficiary is entitled to net income in accordance with the terms of the trust from the date an income interest begins. The income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to:

(1) The trust for the current income beneficiary; or

(2) a successive interest for a successor beneficiary.

(b) An asset becomes subject to a trust under subsection (a)(1):

(1) For an asset that is transferred to the trust during the settlor's life, on the date the asset is transferred;

(2) for an asset that becomes subject to the trust because of a decedent's death, on the date of the decedent's death, even if there is an intervening period of administration of the decedent's estate; or

(3) for an asset that is transferred to a fiduciary by a third party because of a decedent's death, on the date of the decedent's death.

(c) An asset becomes subject to a successive interest under subsection (a)(2) on the day after the preceding income interest ends, as determined under subsection (d), even if there is an intervening period of administration to wind up the preceding income interest.

(d) An income interest ends on the day before an income beneficiary dies or another terminating event occurs or on the last day of a period during which there is no beneficiary to which a fiduciary may or must distribute income.

New Sec. 43. (a) A fiduciary shall allocate an income receipt or disbursement, other than a receipt to which section 40(b), and amendments thereto, applies, to principal if its due date occurs before the date on which:

(1) For an estate, the decedent died; or

(2) for a trust or successive interest, an income interest begins.

(b) If the due date of a periodic income receipt or disbursement oc-

curs on or after the date on which a decedent died or an income interest begins, a fiduciary shall allocate the receipt or disbursement to income.

(c) If an income receipt or disbursement is not periodic or has no due date, a fiduciary shall treat the receipt or disbursement under this section as accruing from day to day. The fiduciary shall allocate to principal the portion of the receipt or disbursement accruing before the date on which a decedent died or an income interest begins, and to income the balance.

(d) A receipt or disbursement is periodic under subsections (b) and (c) if:

(1) The receipt or disbursement must be paid at regular intervals under an obligation to make payments; or

(2) the payor customarily makes payments at regular intervals.

(e) An item of income or obligation is due under this section on the date the payor is required to make a payment. If a payment date is not stated, there is no due date.

(f) Distributions to shareholders or other owners from an entity to which section 17, and amendments thereto, applies are due:

(1) On the date fixed by or on behalf of the entity for determining the persons entitled to receive the distribution;

(2) if no date is fixed, on the date of the decision by or on behalf of the entity to make the distribution; or

(3) if no date is fixed and the fiduciary does not know the date of the decision by or on behalf of the entity to make the distribution, on the date the fiduciary learns of the decision.

New Sec. 44. (a) In this section, "undistributed income" means net income received on or before the date on which an income interest ends. The term does not include an item of income or expense which is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(b) Except as otherwise provided in subsection (c), when a mandatory income interest of a beneficiary ends, the fiduciary shall pay the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust to the beneficiary or, if the beneficiary does not survive the date the interest ends, to the beneficiary's estate.

(c) If a beneficiary has an unqualified power to withdraw more than 5% of the value of a trust immediately before an income interest ends:

(1) The fiduciary shall allocate to principal the undistributed income from the portion of the trust which may be withdrawn; and

(2) subsection (b) applies only to the balance of the undistributed income.

(d) When a fiduciary's obligation to pay a fixed annuity or a fixed fraction of the value of assets ends, the fiduciary shall prorate the final payment as required to preserve an income tax, gift tax, estate tax or other tax benefit.

New Sec. 45. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

New Sec. 46. 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 section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

New Sec. 47. This act applies to a trust or estate existing or created on or after July 1, 2021, except as otherwise expressly provided in the terms of the trust or this act.

New Sec. 48. 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. 49. K.S.A. 2020 Supp. 58a-103 is hereby amended to read as follows: 58a-103. As used in this code:

(1) "Action," with respect to an act of a trustee, includes a failure to act.

(2) "Beneficiary" means a person that:

(A) Has a present or future beneficial interest in a trust, vested or contingent; or

(B) in a capacity other than that of trustee, holds a power of appointment over trust property.

(3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in ~~subsection (a) of~~ K.S.A. 58a-405*(a)*, and amendments thereto.

(4) "Conservator" means a person appointed by the court pursuant to K.S.A. 59-3001 et seq., and amendments thereto, to administer the estate of a minor or adult individual.

(5) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(6) "Guardian" means a person appointed by the court pursuant to K.S.A. 59-3001 et seq., and amendments thereto, to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. The term does not include a guardian ad litem.

(7) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(8) "Jurisdiction," with respect to a geographic area, includes a state or country.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture,

government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(10) "Power of withdrawal" means a presently exercisable general power of appointment other than a power:

(A) Exercisable by a trustee and limited by an ascertainable standard relating to an individuals health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the internal revenue code of 1986, as in effect on July 1, 2006; or

(B) exercisable by another person only upon consent of the trustee or a person holding an adverse interest.

(11) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

(12) (A) "Qualified beneficiary" means a beneficiary who, as of the date in question, either is eligible to receive mandatory or discretionary distributions of trust income or principal, or would be so eligible if the trust terminated on that date.

(B) For the purpose of trustee determining "qualified beneficiaries" of a trust in which a beneficial interest is subject to a power of appointment of any nature, the trustee may conclusively presume such power of appointment has not been exercised unless the trustee has been furnished by the powerholder or the legal representative of the powerholder or the powerholder's estate with the original or a copy of an instrument validly exercising such power of appointment, in which event the qualified beneficiaries shall be subsequently determined by giving due consideration to such exercise unless and until the trustee has been given notification in a similar manner of an instrument which validly revokes or modifies such exercise.

(13) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(14) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(15) "Spendthrift provision" means a term of a trust which restrains either voluntary or involuntary transfer of a beneficiary's interest.

(16) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

(17) "Terms of a trust" means*:*

(A) Except as otherwise provided in subparagraph (B), the manifestation of the settlor's intent regarding a trust's provisions as*: (1)* Expressed in

the trust instrument*;* or ~~as may be~~ *(2)* established by other evidence that would be admissible in a judicial proceeding*; or*

(B) the trust's provisions as established, determined, or amended by: (1) A trustee or person holding a power to direct under K.S.A. 58a-808, and amendments thereto, in accordance with applicable law; (2) court order; or (3) a nonjudicial settlement agreement under K.S.A. 58a-111, and amendments thereto.

(18) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(19) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

Sec. 50. K.S.A. 58-9-101, 58-9-102, 58-9-103, 58-9-104, 58-9-201, 58-9-202, 58-9-301, 58-9-302, 58-9-303, 58-9-401, 58-9-402, 58-9-403, 58-9-404, 58-9-405, 58-9-406, 58-9-407, 58-9-408, 58-9-410, 58-9-411, 58-9-412, 58-9-413, 58-9-414, 58-9-415, 58-9-501, 58-9-502, 58-9-503, 58-9-504, 58-9-506, 58-9-601, 58-9-602 and 58-9-603 and K.S.A. 2020 Supp. 58-9-105, 58-9-106, 58-9-409, 58-9-505, 58-9-606 and 58a-103 are hereby repealed.

Sec. 51. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2021.

CHAPTER 64

SENATE BILL No. 106
(Amended by Chapter 113)

AN ACT enacting the revised uniform law on notarial acts; repealing the uniform law on notarial acts; amending K.S.A. 16-1611, 58-2209 and 58-2211 and K.S.A. 2020 Supp. 25-3602, 25-3902, 25-3902a, 25-3904, 25-3904a, 49-512, 58-652 and 58-4403 and repealing the existing sections; also repealing K.S.A. 53-101, 53-102, 53-103, 53-104, 53-105, 53-105a, 53-106, 53-107, 53-109, 53-113, 53-114, 53-115, 53-116, 53-117, 53-119, 53-120, 53-501, 53-502, 53-503, 53-504, 53-505, 53-506, 53-507, 53-508, 53-510 and 53-511 and K.S.A. 2020 Supp. 53-118, 53-121 and 53-509.

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

New Section 1. (a) Sections 1 through 31, and amendments thereto, shall be known and may be cited as the revised uniform law on notarial acts.

(b) This section shall take effect on and after January 1, 2022.

New Sec. 2. As used in the revised uniform law on notarial acts:

(a) "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(b) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(c) "Electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(d) "In a representative capacity" means acting as:

(1) An authorized officer, agent, partner, trustee or other representative for a person other than an individual;

(2) a public officer, personal representative, guardian or other representative, in the capacity stated in a record;

(3) an agent or attorney-in-fact for a principal; or

(4) an authorized representative of another in any other capacity.

(e) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. "Notarial act" includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument.

(f) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(g) "Notary public" means an individual commissioned to perform a notarial act by the secretary of state.

(h) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record, including an official notary seal.

(i) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

(j) "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.

(k) "Sign" means, with present intent to authenticate or adopt a record, to:

(1) Execute or adopt a tangible symbol; or

(2) attach to or logically associate with the record an electronic symbol, sound or process.

(l) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(m) "Stamping device" means:

(1) A physical device capable of affixing to or embossing on a tangible record an official stamp; or

(2) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

(n) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(o) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

(p) This section shall take effect on and after January 1, 2022.

New Sec. 3. (a) This act applies to a notarial act performed on or after January 1, 2022.

(b) This section shall take effect on and after January 1, 2022.

New Sec. 4. (a) A notarial officer may perform the following notarial acts:

(1) Taking an acknowledgment;

(2) administering an oath or affirmation;

(3) taking a verification upon oath or affirmation;

(4) witnessing or attesting a signature;

(5) certifying or attesting a copy;

(6) noting a protest of a negotiable instrument; and

(7) performing a notarial act authorized by the law of this state.

(b) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

(c) This section shall take effect on and after January 1, 2022.

New Sec. 5. (a) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(b) A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(c) A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(d) A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true and accurate transcription or reproduction of the record or item.

(e) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters provided in K.S.A. 84-3-505(b), and amendments thereto.

(f) This section shall take effect on and after January 1, 2022.

New Sec. 6. (a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

(b) This section shall take effect on and after January 1, 2022.

New Sec. 7. (a) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(b) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) By means of:

(A) A passport, driver's license or government-issued nondriver identification card that is current or expired not more than three years before performance of the notarial act; or

(B) another form of government identification issued to an individual that is current or expired not more than three years before performance of the notarial act, contains the signature and a photograph of the individual and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license or government-issued nondriver identification card that is current or expired not more than three years before performance of the notarial act.

(c) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

(d) This section shall take effect on and after January 1, 2022.

New Sec. 8. (a) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that the:

(1) Individual executing the record is competent or has the capacity to execute the record; or

(2) individual's signature is knowingly and voluntarily made.

(b) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by the law of this state or by federal law.

(c) This section shall take effect on and after January 1, 2022.

New Sec. 9. (a) If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert:

"Signature affixed by (name other than the individual) at the direction of (name of individual)" or similar words.

(b) This section shall take effect on and after January 1, 2022.

New Sec. 10. (a) A notarial act may be performed in this state by:

(1) A notary public of this state;

(2) a judge, clerk or deputy clerk of any court of this state;

(3) a county clerk or deputy county clerk;

(4) an election commissioner or assistant election commissioner; or

(5) any other person authorized to perform the specific act by the law of this state.

(b) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subsection (a)(1), (a)(2), (a)(3) or (a)(4) conclusively establish the authority of the officer to perform the notarial act.

(d) This section shall take effect on and after January 1, 2022.

New Sec. 11. (a) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed in that state is performed by:

(1) A notary public of that state;

(2) a judge, clerk or deputy clerk of a court of that state; or

(3) any other individual authorized by the laws of that state to perform the notarial act.

(b) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subsection (a)(1) or (a)(2) conclusively establish the authority of the officer to perform the notarial act.

(d) This section shall take effect on and after January 1, 2022.

New Sec. 12. (a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

(1) A notary public of the tribe;

(2) a judge, clerk or deputy clerk of a court of the tribe; or

(3) any other individual authorized by the law of the tribe to perform the notarial act.

(b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subsection (a)(1) or (a)(2) conclusively establish the authority of the officer to perform the notarial act.

(d) This section shall take effect on and after January 1, 2022.

New Sec. 13. (a) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

(1) A judge, clerk or deputy clerk of a court;

(2) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(3) an individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or

(4) any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an officer described in subsection (a)(1), (a)(2) or (a)(3) conclusively establish the authority of the officer to perform the notarial act.

(d) This section shall take effect on and after January 1, 2022.

New Sec. 14. (a) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(b) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(c) The signature and official stamp of an individual holding an office described in subsection (b) are prima facie evidence that the signature is genuine and the individual holds the designated title.

(d) An apostille in the form prescribed by the hague convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(e) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(f) As used in this section, "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe.

(g) This section shall take effect on and after January 1, 2022.

New Sec. 15. (a) A remotely located individual may comply with section 6, and amendments thereto, by using communication technology to appear before a notary public.

(b) A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(1) The notary public:

(A) Has personal knowledge under section 7(a), and amendments thereto, of the identity of the individual;

(B) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under this section or section 7(b), and amendments thereto; or

(C) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(2) the notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(3) the notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

(4) for a remotely located individual located outside the United States:

(A) The record:

(i) Is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States; or

(ii) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(B) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(c) If a notarial act is performed under this section, the certificate of notarial act required by section 16, and amendments thereto, and the short-form certificate provided in section 17, and amendments thereto, shall indicate that the notarial act was performed using communication technology.

(d) A short-form certificate provided in section 17, and amendments thereto, for a notarial act subject to this section is sufficient if it:

(1) Complies with rules and regulations adopted pursuant to section 27, and amendments thereto; or

(2) is in the form provided in section 17, and amendments thereto, and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(e) A notary public, a guardian, conservator or agent of a notary public or a personal representative of a deceased notary public, shall retain the audio-visual recording created under subsection (b)(3) or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rules and regulations adopted pursuant to section 27, and amendments thereto, the recording shall be retained for a period of at least 10 years after the recording is made.

(f) Before a notary public performs the notary public's initial notarial act under this section, the notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to remotely located individuals, identify the technologies the notary public intends to use and provide evidence of completion of the course of study and passing of the examination required by section 23, and amendments thereto. If the secretary of state has established standards in rules and regulations adopted pursuant to section 27, and amendments thereto, for approval of communication technology or identity proofing, the communication technology and identity proofing shall conform to the standards. A notary public notifying the secretary of state under this section shall pay an information and services fee in an amount to be determined by the

secretary of state but not to exceed $25. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund.

(g) As used in this section:

(1) "Communication technology" means an electronic device or process that:

(A) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(B) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing or speech impairment.

(2) "Foreign state" means a jurisdiction other than the United States, a state or a federally recognized Indian tribe.

(3) "Identity proofing" means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(4) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession or other location subject to the jurisdiction of the United States.

(5) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection (b).

(h) This section shall take effect on and after January 1, 2022.

New Sec. 16. (a) A notarial act shall be evidenced by a certificate that shall:

(1) Be executed contemporaneously with the performance of the notarial act;

(2) be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state;

(3) identify the jurisdiction in which the notarial act is performed;

(4) contain the title of office of the notarial officer; and

(5) if the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

(b) If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the

information specified in subsections (a)(2), (a)(3) and (a)(4), an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsections (a)(2), (a)(3), (a)(4) and (a)(5), an official stamp may be attached to or logically associated with the certificate.

(c) A certificate of a notarial act is sufficient if it meets the requirements of subsections (a) and (b) and:

(1) Is in a short form set forth in section 17, and amendments thereto;

(2) is in a form otherwise permitted by the law of this state;

(3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(4) sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 5, 6 and 7, and amendments thereto, or the law of this state.

(d) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 4, 5 and 6, and amendments thereto.

(e) A notarial officer shall not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(f) If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards in rules and regulations adopted pursuant to section 27, and amendments thereto, for attaching, affixing or logically associating the certificate, the process shall conform to the standards.

(g) If a notary public willfully neglects or refuses to attach to a notarial certificate the date of expiration of the notary public's commission, as provided in subsection (a)(5), then the notary public is guilty of a class C nonperson misdemeanor.

(h) This section shall take effect on and after January 1, 2022.

New Sec. 17. The secretary of state shall adopt rules and regulations providing short-form certificates of notarial acts that are sufficient for the purposes indicated if completed with the information required by law.

New Sec. 18. (a) The official stamp of a notary public shall include the notary public's name exactly as it appears on the application for commission as a notary public, the words "notary public" and "State of Kansas", and other information required by the secretary of state, and be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated. No notary public shall use such stamp unless an impression thereof has been filed in the office of the secretary of state.

(b) This section shall take effect on and after January 1, 2022.

New Sec. 19. (a) A notary public is responsible for the security of the notary public's stamping device and shall not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

(b) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall promptly notify the secretary of state on discovering that the device is lost or stolen.

(c) This section shall take effect on and after January 1, 2022.

New Sec. 20. (a) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

(b) A journal shall be created on a tangible medium or in an electronic format. A notary public shall maintain only one journal in a tangible medium or one or more journals in an electronic format to chronicle all notarial acts performed regarding electronic records. If the journal is maintained on a tangible medium, it shall be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format complying with the rules and regulations of the secretary of state.

(c) An entry in a journal shall be made contemporaneously with performance of the notarial act and contain the following information:

(1) The date and time of the notarial act;

(2) a description of the record, if any, and type of notarial act;

(3) the full name and address of each individual for whom the notarial act is performed;

(4) if identity of the individual is based on personal knowledge, a statement to that effect;

(5) if identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential; and

(6) the fee, if any, charged by the notary public.

(d) If a notary public's journal is lost or stolen, the notary public shall promptly notify the secretary of state on discovering that the journal is lost or stolen.

(e) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (a) and inform the secretary of state where the journal is located.

(f) Instead of retaining a journal as provided in subsections (a) and (e), a current or former notary public may transmit the journal to a repository approved by the secretary of state.

(g) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall:

(1) Retain the notary public's journal in accordance with subsection (a) or transmit the journal to a repository approved by the secretary of state; and

(2) inform the secretary of state where the journal is located.

(h) This section shall take effect on and after January 1, 2022.

New Sec. 21. (a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records, identify the technology the notary public intends to use and provide evidence of completion of the course of study and passing of the examination required by section 23, and amendments thereto. If the secretary of state has established standards in rules and regulations for approval of technology pursuant to section 27, and amendments thereto, the technology shall conform to such standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology. A notary public notifying the secretary of state pursuant to this section shall pay an information and services fee in an amount determined by the secretary of state adopted in rules and regulations, not to exceed $25. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund.

(c) A register of deeds may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any require-

ment that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

(d) This section shall take effect on and after January 1, 2022.

New Sec. 22. (a) An individual qualified under subsection (c) may apply to the secretary of state for a commission as a notary public. The applicant shall file with the secretary of state an application for appointment as a notary public that includes:

(1) An oath of office;

(2) an assurance in the form of a surety bond or its functional equivalent in the amount of $12,000 that shall be issued by a surety or other entity licensed or authorized to do business in this state;

(3) evidence of completion of the course of study and passing of the examination required by section 23, and amendments thereto, if required;

(4) the official signature and an impression of the stamp to be used by the notary public; and

(5) an application fee in the amount of $10.

(b) An application, oath of office and surety bond or its functional equivalent received pursuant to this section and a record of commission issued under this section shall be filed in the office of the secretary of state and properly indexed in that office. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(c) An applicant for a commission as a notary public shall:

(1) Be at least 18 years of age;

(2) be a citizen of the United States;

(3) be a resident of this state or be a resident of a state bordering on this state and have a regular place of employment or practice in this state;

(4) be able to read and write the English language; and

(5) not be disqualified to receive a commission by section 24, and amendments thereto.

(d) The assurance required in subsection (a) shall cover acts performed during the term of the notary public's commission and shall be in the form prescribed by the secretary of state. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. No suit shall be instituted against a notary public or the surety or issuing entity under the notary public's assurance more than three years after the cause of action accrues. The surety or issuing entity shall give notice to the secretary of state 30 days before canceling the assurance. The surety or issuing entity shall no longer be liable on such assurance 30 days after receipt of such notice by the secretary of

state. Whenever the secretary of state receives such notice of intent to cancel a notary public's assurance, the secretary of state shall notify the affected notary public that unless such notary public files another assurance satisfying the requirements of this subsection with the secretary of state on or before the cancellation date, then such notary public will no longer be authorized to perform notarial acts within this state. The surety or issuing entity shall notify the secretary of state not later than 30 days after making a payment to a claimant under the assurance or the denial of a claim under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

(e) Any person injured by the failure of a notary public to faithfully perform any notarial act for which a bond or its functional equivalent is given under the laws of this state may sue in the person's own name in any court of competent jurisdiction to recover the damages the person may have sustained by such failure.

(f) The secretary of state shall issue a commission as a notary public to an applicant for a term of four years, unless sooner revoked under section 24, and amendments thereto, if such applicant complies with the provisions of this section.

(g) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees. A notary public shall not be considered a state officer.

(h) If a notary public changes name by any legal action, such notary shall obtain a new official stamp that meets the requirements established by section 18, and amendments thereto, and the stamp shall contain the new name of the notary public. Prior to performing any acts as a notary public after such change, the notary shall mail or deliver to the secretary of state notice of the change of name and shall include a specimen of the new stamp and a specimen of the notary's new official signature.

(i) If a notary public obtains a new stamp for any reason, the notary shall mail or deliver to the secretary of state notice of the change of stamp that shall include an impression of the new stamp.

(j) An individual may resign from the office of notary public by sending by mail or delivering to the secretary of state a notification of the individual's resignation or intent or desire to resign. The individual's commission as notary public shall terminate upon delivery of the notification.

(k) A notary public's commission may not be automatically renewed. A notary public who desires to renew a commission shall be qualified and apply for a new commission pursuant to this section.

(l) This section shall take effect on and after January 1, 2022.

New Sec. 23. (a) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall pass an examination administered by the secretary of state or an entity approved by the secretary of state. The examination shall be based on the course of study described in subsection (b).

(b) The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to notaries public in this state. The course shall cover the laws, rules, procedures and ethics relevant to notarial acts with respect to electronic records.

(c) This section shall take effect on and after January 1, 2022.

New Sec. 24. (a) The secretary of state may deny, refuse to renew, revoke, suspend or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence or reliability to act as a notary public, including:

(1) Failure to comply with this act;

(2) a fraudulent, dishonest, deceitful, misstatement or omission in the application for a commission as a notary public submitted to the secretary of state;

(3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty or deceit, including entering into a diversion agreement in lieu of further criminal proceedings for such crime;

(4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;

(5) failure by the notary public to discharge any duty required of a notary public, whether by this act, rules and regulations of the secretary of state or any federal or state law;

(6) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right or privilege that the notary does not have;

(7) violation by the notary public of a rule and regulation of the secretary of state regarding a notary public;

(8) denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state;

(9) failure of the notary public to maintain an assurance as provided in section 22(d), and amendments thereto;

(10) denial, revocation or suspension of a professional license, if such denial, revocation or suspension was for fraud, dishonesty, deceit or any cause substantially relating to the duties or responsibilities of a notary public;

(11) cessation of United States citizenship;

(12) incapacitation to such a degree that the person is incapable of reading or writing the English language;

(13) violation of section 25(b), (c) or (d), and amendments thereto; or

(14) violation of section 25(a), (e), (f), (g) or (h), and amendments thereto.

(b) An individual whose commission as a notary public has been revoked for a reason described in subsections (a)(1) through (a)(13) may not apply for a new commission until the expiration of four years from the date of such revocation. An individual whose commission as a notary public has been revoked for the reason described in subsection (a)(14) may not apply for or receive a new commission for such individual's lifetime.

(c) The authority of the secretary of state to deny, refuse to renew, suspend, revoke or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

(d) This section shall take effect on and after January 1, 2022.

New Sec. 25. (a) A commission as a notary public does not authorize an individual to:

(1) Assist persons in drafting legal records, give legal advice or otherwise practice law;

(2) act as an immigration consultant or an expert on immigration matters;

(3) represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or

(4) receive compensation for performing any of the activities listed in this subsection.

(b) A notary public may not perform a notarial act with respect to a record to which the officer or the officer's spouse is a party or in which either of them has a direct financial or beneficial interest. A notarial act performed in violation of this subsection is voidable.

(c) For purposes of subsection (b), a notarial officer has a direct financial or beneficial interest in a transaction if the notarial officer:

(1) With respect to a financial transaction, is named in a record, individually, as a principal to the transaction; or

(2) with respect to a real property transaction, is named in a record, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor or lessee to the transaction.

(d) For purposes of subsection (b), a notarial officer has no direct financial or beneficial interest in a transaction when the notarial officer acts in the capacity of an agent, employee, insurer, attorney, escrow agent or lender for a person having a direct financial or beneficial interest in the transaction.

(e) A notary public shall not engage in false or deceptive advertising.

(f) A notary public, other than an attorney licensed to practice law in this state, may not use the term "notario" or "notario publico" or any equivalent non-English term in any business card, advertisement, notice or sign.

(g) A notary public, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation and in each language in which notarial services are offered: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media or the internet and does not permit inclusion of the statement required by this subsection because of size, it shall be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(h) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

(i) Violation of subsections (f) or (g) is a class B nonperson misdemeanor.

(j) Violation of subsections (e), (f) or (g) constitutes a deceptive act or practice pursuant to K.S.A. 50-626, and amendments thereto, and shall be subject to the remedies and penalties provided by the Kansas consumer protection act.

(k) This section shall take effect on and after January 1, 2022.

New Sec. 26. (a) Except as otherwise provided in section 25(b), and amendments thereto, the failure of a notarial officer to perform a duty or meet a requirement specified in this act does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this act does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on state or federal law. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

(b) This section shall take effect on and after January 1, 2022.

New Sec. 27. (a) The secretary of state shall adopt rules and regulations to implement this act. Rules and regulations adopted regarding the

performance of notarial acts with respect to electronic records shall not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules and regulations may include, but are not limited to:

(1) Prescribing the manner of performing notarial acts regarding tangible and electronic records;

(2) including provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) including provisions to ensure integrity in the creation, transmittal, storage or authentication of electronic records or signatures;

(4) prescribing the process of granting, renewing, conditioning, denying, suspending or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;

(5) including provisions to prevent fraud or mistake in the performance of notarial acts;

(6) establishing the process for approving and accepting surety bonds and other forms of assurance as allowed by law; and

(7) providing for the administration of the examination and the course of study required by law.

(b) The secretary of state shall adopt rules and regulations regarding notarial acts using communication technology for a remotely located individual including, but not limited to:

(1) Prescribing the means of performing a notarial act involving a remotely located individual using communication technology;

(2) establishing standards for communication technology and identity proofing;

(3) establishing requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(4) establishing standards and a period for the retention of an audio-visual recording created when performing a notarial act using communication technology for a remotely located individual.

(c) In adopting rules and regulations about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with this act:

(1) The most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state; and

(2) standards, practices and customs of other jurisdictions that substantially enact this act.

New Sec. 28. (a) A commission or appointment as a notary public in effect on January 1, 2022, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after January 1, 2022, is subject to and shall comply with this act. A notary

public, in performing notarial acts after January 1, 2022, shall comply with this act.

(b) This section shall take effect on and after January 1, 2022.

New Sec. 29. (a) This act does not affect the validity or effect of a notarial act performed before January 1, 2022.

(b) A cause of action that has accrued against a notary public or the notary public's securities before January 1, 2022, are governed by any statute or other rule amended or repealed by this act as if amendment or repeal had not occurred.

(c) This section shall take effect on and after January 1, 2022.

New Sec. 30. (a) In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(b) This section shall take effect on and after January 1, 2022.

New Sec. 31. (a) This act modifies, limits and supersedes the federal electronic signatures in global and national commerce act, 15 U.S.C. § 7001 et seq., except that nothing in this act modifies, limits or supersedes § 7001(c) of that act or authorizes electronic delivery of any of the notices described in § 7003(b) of that act.

(b) This section shall take effect on and after January 1, 2022.

Sec. 32. On and after January 1, 2022, K.S.A. 16-1611 is hereby amended to read as follows: 16-1611. ~~(a)~~ If a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

~~(b) The secretary of state is hereby authorized to promulgate rules and regulations establishing procedures for an electronic notarization.~~

Sec. 33. On and after January 1, 2022, K.S.A. 2020 Supp. 25-3602 is hereby amended to read as follows: 25-3602. (a) Each petition shall consist of one or more documents pertaining to a single issue or proposition under one distinctive title. The documents shall be filed with the county election officer or other official, if another official is designated in the applicable statutes. The filing shall be made at one time all in one group. Later or successive filings of documents relating to the same issue or proposition shall be deemed to be separate petitions and not a part of any earlier or later filing.

(b) Unless otherwise specifically required, each petition shall:

(1) State the question which petitioners seek to bring to an election in the form of a question as it should appear upon the ballot in accordance with the requirements of K.S.A. 25-620 and ~~K.S.A.~~ 25-3601, and amendments thereto;

(2) name the taxing subdivision or other political subdivision in which an election is sought to be held;

(3) contain the following recital above the spaces provided for signatures: "I have personally signed this petition. I am a registered elector of the state of Kansas and of

_____
(here insert name of political or taxing subdivision)

and my residence address is correctly written after my name."

The recital shall be followed by blank spaces for the signature, residence address and date of signing for each person signing the petition.

When petitioners are required by law to possess qualifications in addition to being registered electors, the form of the petition shall be amended to contain a recital specifying the additional qualifications required and stating that the petitioners possess the qualifications; and

(4) contain a recital in substance as follows, at the end of each set of documents carried by each petition circulator as defined in K.S.A. 2020 Supp. 25-3608, and amendments thereto: "I am the circulator of this petition and I am qualified to circulate this petition and I personally witnessed the signing of the petition by each person whose name appears thereon.

_____
(Signature of circulator)

_____"
(Circulator's residence address)

The recital of the circulator of each petition shall be verified upon oath or affirmation before a notarial officer in the manner prescribed by ~~K.S.A. 53-501 et seq., and amendments thereto~~ *the revised uniform law on notarial acts*.

(c) Any person who has signed a petition who desires to withdraw such person's name may do so by giving written notice to the county election officer or other designated official not later than the third day following the date upon which the petition is filed.

(d) Any petition shall be null and void unless submitted to the county election officer or other designated official within 180 days of the date of the first signature on the petition.

(e) Unless the governing body of the political or taxing subdivision in which the election is sought to be held authorizes a special election, all elections which are called as a result of the filing of a sufficient petition shall be held at the next succeeding primary or general election as defined by K.S.A. 25-2502, and amendments thereto, in which the political or taxing subdivision is participating.

(f) When a petition requires signatures equal in number to a percentage of the total number of registered voters, such percentage shall be based on the most recent number of registered voters as certified to the

office of the secretary of state pursuant to ~~subsection (g) of~~ K.S.A. 25-2311*(g)*, and amendments thereto.

Sec. 34. On and after January 1, 2022, K.S.A. 2020 Supp. 25-3902 is hereby amended to read as follows: 25-3902. (a) Except as provided in K.S.A. 25-312a, and amendments thereto, when a district convention is provided by law to be held to elect a person to be appointed to fill a vacancy in a district office, the county chairperson designated in subsection (b) or (c), within 21 days of receipt of notice that a vacancy has occurred or will occur, shall call and convene a convention of all committeemen and committeewomen of the party of the precincts in such district for the purpose of electing a person to be appointed by the governor to fill the vacancy. If such county chairperson is absent or for any reason is unable to call, or refuses to call such convention, then the county vice-chairperson shall call the convention and perform the other duties under this section required of such chairperson.

(b) If the district lies within a single county, the county chairperson of such county shall call the convention by mailing a notice, at least seven days before the date of the convention, to each precinct committeeman and committeewoman who is entitled to vote at the convention pursuant to subsection (e).

(c) If all or part of more than one county lies within the district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call the convention by mailing a notice of the convention to each county chairperson of the party in each such county at least 10 days before the date of the convention. Such convention shall be held at a location within the district selected by the chairperson calling the convention. Such county chairperson, within three days after receipt of such notice, shall mail notice of the convention to the committeemen and committeewomen in their counties who are entitled to vote at the convention pursuant to subsection (e).

(d) The notice of such convention shall state:

(1) The place where the convention is to be held;

(2) the time when the convention will convene; and

(3) the purpose for which the convention is to be held.

(e) At the time and place fixed for holding the convention, the county chairperson who called the convention shall act as temporary chairperson and shall call the convention to order. One-third of the eligible members of the convention shall constitute a quorum for such election. In the event a quorum is not present at the time and place that such convention is called, the members present shall adjourn the convention to a day and time certain, which shall be not later than 14 days after such adjournment of such convention, and provide for notification of the time and place of such adjourned convention to be given to the eligible members not pres-

ent. The convention shall organize by electing a permanent chairperson and such other officers as necessary. After the convention is organized, it shall elect a person to be appointed by the governor to fill the vacancy. Such election shall be by secret ballot and the person elected shall be the one who receives the majority of all the votes cast. If no person receives a majority of all votes cast on any ballot, the balloting shall continue until some person receives a majority of all the votes cast. Each committeeman and committeewoman of the party of the precincts in such district shall be entitled to vote. Except as provided in subsection (f), no precinct committeeman or committeewoman shall be represented or shall vote by proxy. The convention may adopt such rules necessary to govern its procedure in making nominations, voting, counting, and canvassing votes and for the conduct of any business which may properly be brought before the convention, but such rules shall not be in conflict with the provisions of this section.

(f) (1) A precinct committeeman or committeewoman may vote by proxy at a convention called pursuant to this section whenever such precinct committeeman or committeewoman is unable to attend the convention and cast such precinct committeeman's or committeewoman's ballot.

(2) A precinct committeeman or committeewoman may designate another precinct committeeman or committeewoman to cast such precinct committeeman's or precinct committeewoman's ballot at such convention by proxy. Any proxy authorized by this subsection shall:

(A) Designate the precinct committeeman or committeewoman who shall cast the precinct committeeman's or precinct committeewoman's vote by proxy;

(B) be signed by the precinct committeeman or precinct committeewoman authorizing the proxy; and

(C) contain an acknowledgment of such precinct committeeman's or precinct committeewoman's signature ~~which~~ *that* complies with ~~K.S.A. 53-509~~ *section 17*, and amendments thereto.

(g) After a person has been elected to be appointed to fill a vacancy in a district office, the chairperson or vice-chairperson of the convention shall execute a certificate, under oath, stating that such person has been duly elected to be appointed to fill such vacancy and shall transmit such certificate either by hand delivery by a person designated by such chairperson or vice-chairperson or by registered mail, return receipt requested, to the governor and a copy thereof to the secretary of state. If transmitted by registered mail, such certificate and the copy thereof shall be mailed within 24 hours of such election, unless the day following such election is a Sunday or legal holiday, in which case it shall be mailed by the next regular business day. Thereupon, and not later than seven days after such certificate is received in the office of the governor,

the governor, or in the governor's absence the lieutenant governor, shall fill such vacancy by appointing to such district office the person so elected. In the event the governor or lieutenant governor fails to appoint any person as required by this subsection after receiving a lawfully executed certificate hereunder, such person shall be deemed to have been so appointed notwithstanding such failure. The person so appointed may qualify and enter upon the duties of the district office immediately after appointment.

Sec. 35. On and after January 1, 2022, K.S.A. 2020 Supp. 25-3902a is hereby amended to read as follows: 25-3902a. (a) When a vacancy occurs in the office of member of the state board of education, the county chairperson designated in subsection (b), (c) or (d), within 21 days of receipt of notice that a vacancy has occurred or will occur shall call and convene a district convention for the purpose of electing a person to be appointed by the governor to fill the vacancy. Such person shall be an elector of the same political party as that of the board member vacating such position and shall reside in the board member district corresponding to such board member position. If such county chairperson is absent or for any reason is unable to call or refuses to call such convention, then the county vice-chairperson shall call the convention and perform the other duties required of such chairperson under this section.

(b) If the board member district lies within a single county, the county chairperson of such county shall call a convention of all precinct committeemen and committeewomen of the party of the precincts in such district in the manner provided by ~~subsections (b) and (d) of~~ K.S.A. 25-3902*(b) and (d)*, and amendments thereto, and such convention shall be conducted as provided in subsection (e).

(c) If all or part of more than one and less than five counties lie within the board member district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call a convention of all precinct committeemen and committeewomen of the party of the precincts in such district in the manner provided by ~~subsections (c) and (d) of~~ K.S.A. 25-3902*(c) and (d)*, and amendments thereto, and such convention shall be conducted as provided in subsection (e). Such convention shall be held at a location within the district selected by the chairperson calling the convention.

(d) If all or part of five or more counties lie within the board member district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call a convention of all county chairpersons and vice-chairpersons of the party of the counties in such district. Such convention shall be held at a location within the district selected by the chairperson calling the convention. Such county chairperson shall call the convention by mailing a notice to each such county

chairperson and vice-chairperson, at least seven days before the date of the convention. Such notice shall state: (1) The place where the convention is to be held; (2) the time when the convention will convene; and (3) the purpose for which the convention is to be held, and such convention shall be conducted as provided in subsection (e).

(e) At the time and place fixed for holding the convention, the county chairperson who called the convention shall act as temporary chairperson and shall call the convention to order. One-third of the eligible members of the convention shall constitute a quorum for such election. In the event a quorum is not present at the time and place that such convention is called, the members present shall adjourn the convention to a day and time certain, which shall be not later than 14 days after adjournment of such convention, and provide for notification of the time and place of such adjourned convention to be given to the eligible members not present. The convention shall proceed to organize by electing a permanent chairperson and such other officers as necessary. After the convention is organized, it shall proceed to elect a person to be appointed by the governor to fill the vacancy. Such election shall be by secret ballot and the person elected shall be the one who shall receive the majority of all the votes cast. If no person receives a majority of all votes cast on any ballot, the balloting shall continue until some person receives a majority of all the votes cast. Each county chairperson and vice-chairperson of the party of the counties in such district shall be entitled to vote. Except as provided in subsection (f), no county chairperson or vice-chairperson shall be represented or shall vote by proxy. The convention may adopt such rules as necessary to govern its procedure in making nominations, voting, counting and canvassing votes and for the conduct of any business which may properly be brought before the convention, but such rules shall not be in conflict with the provisions of this section.

(f) (1) A precinct committeeman or committeewoman who serves as county chairperson or vice-chairperson may vote by proxy at a convention called pursuant to this section whenever such precinct committeeman or committeewoman is unable to attend the convention and cast such precinct committeeman's or committeewoman's ballot.

(2) A precinct committeeman or committeewoman may designate another precinct committeeman or committeewoman to cast such precinct committeeman's or precinct committeewoman's ballot at such convention by proxy. Any proxy authorized by this subsection shall:

(A) Designate the precinct committeeman or committeewoman who shall cast the precinct committeeman's or precinct committeewoman's vote by proxy;

(B) be signed by the precinct committeeman or precinct committeewoman authorizing the proxy; and

(C) contain an acknowledgment of such precinct committeeman's or precinct committeewoman's signature which complies with ~~K.S.A. 53-509~~ *section 17*, and amendments thereto.

(g) After a person has been elected to be appointed to fill a vacancy in the office of member of the state board of education, the chairperson or vice-chairperson of the convention shall execute a certificate, under oath, stating that such person has been duly elected to be appointed to fill such vacancy and shall transmit such certificate to the governor. Thereupon, and not later than seven days after such certificate is received in the office of the governor, the governor, or in the governor's absence the lieutenant governor, shall fill such vacancy by appointing to the office of member of the state board of education the person so elected. In the event the governor or lieutenant governor fails to appoint any person as required by this subsection after receiving a lawfully executed certificate hereunder, such person shall be deemed to have been so appointed notwithstanding such failure. The person so appointed may qualify and enter upon the duties of office immediately after appointment.

(h) A person shall be elected to be appointed to fill a vacancy in the office of member of the state board of education within 35 days after such vacancy occurs. If no person is so elected within the 35-day period, the governor shall fill such vacancy by appointment of an elector of the same political party as that of the board member vacating such position and who resides in the board member district corresponding to such board member position. The person so appointed may qualify and enter upon the duties of office immediately after appointment.

Sec. 36. On and after January 1, 2022, K.S.A. 2020 Supp. 25-3904 is hereby amended to read as follows: 25-3904. (a) When a district convention is provided by law to be held to elect a person to fill a vacancy in a party candidacy for a district office, the county chairperson designated in subsection (b) or (c), within 14 days of the receipt of the notice that the vacancy has occurred or will occur shall call and convene a convention of all committeemen and committeewomen of the political party from the precincts in such district. If such county chairperson is absent or for any reason is unable to call, or refuses to call such convention, then the corresponding county vice-chairperson shall call the convention and perform the other duties under this section required of such chairperson.

(b) If the district lies within a single county, the county chairperson of such county shall call the convention by mailing a notice at least seven days before the date of the convention to the committeemen and committeewomen in such county who are entitled to vote at such convention pursuant to subsection (e).

(c) If all or part of more than one county lies within the district, the county chairperson of the county in which the greatest number of qual-

ified voters of the district reside shall call the convention by mailing a notice of such convention to each county chairperson of the party in each such county, at least 10 days before the date of the convention. Such convention shall be held at a location within the district selected by the chairperson calling the convention. Such county chairpersons shall, within three days after receipt of such notice, mail notice of such convention to the committeemen and committeewomen in their counties who are entitled to vote at such convention pursuant to subsection (e).

(d) The notice of such convention shall state: (1) The place where the convention is to be held; (2) the time when the convention will convene; and (3) the purpose for which the convention is to be held.

(e) At the time and place fixed for holding the convention, the county chairperson who called the convention shall act as temporary chairperson and shall call the convention to order. One-third of the eligible members of the convention shall constitute a quorum for such election. In the event a quorum is not present at the time and place that such convention is called, the members present shall adjourn the convention to a day and time certain, which shall not be later than six days after such adjournment of such convention, and provide for notification of the time and place of such adjourned convention to be given to the eligible members not present. The convention shall organize by electing a permanent chairperson and such other officers as necessary. After the convention is organized, it shall elect a person to fill such vacancy in the party candidacy. Such election shall be by secret ballot and the person elected shall be the one who receives the majority of all the votes cast. If no person receives a majority of all votes cast on any ballot, the balloting shall continue until some person receives a majority of all the votes cast. Each committeeman and committeewoman of the party of the precincts in such district shall be entitled to vote. Except as provided in subsection (f), no precinct committeeman or committeewoman shall be represented or shall vote by proxy. The convention may adopt rules as necessary to govern its procedure in making nominations, voting, counting and canvassing votes and for the conduct of any business which may properly be brought before the convention, but such rules shall not be in conflict with the provisions of this section.

(f) (1) A precinct committeeman or committeewoman may vote by proxy at a convention called pursuant to this section whenever such precinct committeeman or committeewoman is unable to attend the convention and cast such precinct committeeman's or committeewoman's ballot.

(2) A precinct committeeman or committeewoman may designate another precinct committeeman or committeewoman to cast such precinct committeeman's or precinct committeewoman's ballot at such convention by proxy. Any proxy authorized by this subsection shall:

(A) Designate the precinct committeeman or committeewoman who shall cast the precinct committeeman's or precinct committeewoman's vote by proxy;

(B) be signed by the precinct committeeman or precinct committeewoman authorizing the proxy; and

(C) contain an acknowledgment of such precinct committeeman's or precinct committeewoman's signature which complies with ~~K.S.A. 53-509~~ *section 17*, and amendments thereto.

(g) After a person has been elected to fill a vacancy in a party candidacy for a district office, the chairperson or vice-chairperson of the convention shall execute a certificate, under oath, stating that such person has been duly elected to fill such vacancy and that such person has agreed to accept the nomination. The person elected to fill such vacancy shall execute a notarized written statement stating that such person agrees to accept the nomination. The chairperson or vice-chairperson shall transmit such certificate to the secretary of state or appropriate county election officer, as the case may be, within 21 days of receipt of the notice that the vacancy has occurred or will occur.

(h) For the purposes of this section, the word "shall" imposes a mandatory duty and no court may construe that word in any other way.

Sec. 37. On and after January 1, 2022, K.S.A. 2020 Supp. 25-3904a is hereby amended to read as follows: 25-3904a. (a) When a vacancy occurs in a party candidacy for the office of member of the state board of education, the county chairperson designated in subsection (b), (c) or (d), within 10 days of receipt of notice that the vacancy has occurred or will occur, shall call and convene a district convention for the purpose of electing a person to fill such vacancy. If such county chairperson is absent or for any reason is unable to call or refuses to call such convention, then the county vice-chairperson shall call the convention and perform the other duties required of such chairperson under this section.

(b) If the board member district lies within a single county, the county chairperson of such county shall call a convention of all precinct committeemen and committeewomen of the party of the precincts in such district in the manner provided by K.S.A. 25-3904(b) and (d), and amendments thereto, and such convention shall be conducted in the manner provided in K.S.A. 25-3904(e), and amendments thereto.

(c) If all or part of more than one and less than five counties lie within the board member district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call a convention of all precinct committeemen and committeewomen of the party of the precincts in such district in the manner provided by K.S.A. 25-3904(c) and (d), and amendments thereto, and such convention shall be conducted as provided in K.S.A. 25-3904(e), and amendments thereto.

Such convention shall be held at a location within the district selected by the chairperson calling the convention.

(d) If all or part of five or more counties lie within the board member district, the county chairperson of the county in which the greatest number of qualified voters of the district reside shall call a convention of all county chairpersons and vice-chairpersons of the party of the counties in such district. Such convention shall be held at a location within the district selected by the chairperson calling the convention. Such county chairperson shall call the convention by mailing a notice to each such county chairperson and vice-chairperson at least seven days before the date of the convention. Such notice shall state: (1) The place where the convention is to be held; (2) the time when the convention will convene; and (3) the purpose for which the convention is to be held.

(e) At the time and place fixed for holding the convention, the county chairperson who called the convention shall act as temporary chairperson and shall call the convention to order. One-third of the eligible members of the convention shall constitute a quorum for such election. In the event a quorum is not present at the time and place that such convention is called, the members present shall adjourn the convention to a day and time certain, which shall be not later than three days after such adjournment of such convention and provide for notification of the time and place of such adjourned convention to be given to the eligible members not present. The convention shall proceed to organize by electing a permanent chairperson and such other officers as necessary. After the convention is organized, it shall proceed to elect a person to fill the vacancy in the party candidacy. Such election shall be by secret ballot and the person elected shall be the one who shall receive the majority of all the votes cast. If no person receives a majority of all votes cast on any ballot, the balloting shall continue until some person receives a majority of all the votes cast. Each county chairperson and vice-chairperson of the party of the counties in such district shall be entitled to vote. Except as provided in subsection (f), no county chairperson or vice-chairperson shall be represented or shall vote by proxy. The convention may adopt rules necessary to govern its procedure in making nominations, voting, counting and canvassing votes and for the conduct of any business which may properly be brought before the convention, but such rules shall not be in conflict with the provisions of this section.

(f) (1) A precinct committeeman or committeewoman who serves as county chairperson or vice-chairperson may vote by proxy at a convention called pursuant to this section whenever such precinct committeeman or committeewoman is unable to attend the convention and cast such precinct committeeman's or committeewoman's ballot.

(2) A precinct committeeman or committeewoman may designate another precinct committeeman or committeewoman to cast such precinct

committeeman's or precinct committeewoman's ballot at such convention by proxy. Any proxy authorized by this subsection shall:

(A) Designate the precinct committeeman or committeewoman who shall cast the precinct committeeman's or precinct committeewoman's vote by proxy;

(B) be signed by the precinct committeeman or precinct committeewoman authorizing the proxy; and

(C) contain an acknowledgment of such precinct committeeman's or precinct committeewoman's signature which complies with ~~K.S.A. 53-509~~ *section 17*, and amendments thereto.

(g) After a person has been elected to fill a vacancy in a party candidacy for the office of member of the state board of education, the chairperson or vice-chairperson of the convention shall execute a certificate, under oath, stating that such person has been duly elected to fill such vacancy and that such person has agreed to accept the nomination. The person elected to fill such vacancy shall execute a notarized written statement stating that such person agrees to accept the nomination. The chairperson or vice-chairperson shall transmit such certificate to the secretary of state, within 14 days of receipt of the notice that the vacancy has occurred or will occur.

(h) For the purposes of this section, the word "shall" imposes a mandatory duty and no court may construe that word in any other way.

Sec. 38. On and after January 1, 2022, K.S.A. 2020 Supp. 49-512 is hereby amended to read as follows: 49-512. (a) A state public trust shall be created to administer relocation assistance pursuant to this act and to acquire, hold and dispose of property as specified in this act.

(b) The trust shall have five trustees appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as trustee shall exercise any power, duty or function as a trustee until confirmed by the senate. The terms of trustees first appointed shall be as follows: One trustee shall serve for a term expiring the first March 15 following appointment, one for a term expiring the second March 15 following appointment, one for a term expiring the third March 15 following appointment and two for terms expiring the fourth March 15 following appointment. Thereafter, trustees shall be appointed for terms of four years and until their successors are appointed and confirmed. Whenever a vacancy on the trust occurs, the governor shall fill the vacancy by appointment and the appointee shall hold office for the unexpired term. Each trustee shall hold office until a successor has been appointed and confirmed. A trustee may be removed only for cause.

(c) The trustees, who shall be deemed public officers, shall be paid amounts from funds of the trust for per diem compensation as provided in

K.S.A. 75-3212, and amendments thereto, for members of the legislature, for each day of actual attendance at any meeting of the trust.

(d) Every person becoming a trustee first shall take the oath of office required of a state elected official. The oath of office shall be administered by a person authorized to administer oaths in the state of Kansas and shall be filed with the secretary of state.

(e) Every officer and employee who handles funds of the trust shall furnish bond or other good and sufficient security in an amount and upon such terms as established by the state committee on surety bonds and insurance pursuant to K.S.A. 75-4101 et seq., and amendments thereto, but in no event shall any bond or other security be required of a trustee. The cost of the bond shall be paid from funds of the trust.

(f) The trustees shall adopt bylaws for the administration and regulation of the affairs of the trust. All such bylaws shall be submitted in writing to the governor and must be approved by the governor before taking effect.

(g) The trustees shall cause an audit to be made of the financial statements of the trust within 30 days after the close of each fiscal year of the trust. The expense of the audit shall be paid from funds of the trust. The trust annually shall file with the governor and the legislature copies of financial documents and reports sufficient to demonstrate the fiscal activity of the trust, including, but not limited to, budgets, financial reports and audits. Amendments to the adopted budget shall be approved by the trustees of the trust and recorded as such in the official minutes of the trust.

(h) Meetings of the trustees shall be subject to the open meetings law. Records of the trust and minutes of meetings of the trust shall be written and kept in a place, the location of which shall be recorded in the office of the secretary of state, and shall be subject to the Kansas open records act. The trust shall file a monthly report of all expenditures with the governor, the speaker of the house of representatives and the president of the senate.

(i) Any real or personal property may be acquired and held in the name of the trust. When acquired, any conveyance, assignment or other transfer shall be made in the name of the trust by the chairperson of the trust, attested by the secretary of the trust, with the seal of the trust affixed thereto.

(j) Any conveyance, assignment or other transfer of any estate in real property, executed by a trust, must be acknowledged by the president or chairperson of the trust subscribing the name of the trust thereto, which acknowledgment shall be in substantially the form provided in the *revised* uniform law on notarial acts. Any instrument of conveyance, assignment or other transfer executed in the name of the trust pursuant to this act and bearing a signature which purports to be the signature of the chairperson

of the trust, shall be deemed prima facie evidence that the conveyance, assignment or other transfer is the act of the trust and the trustees thereof, that it was duly executed and signed by the chairperson of the trust who was a trustee of the trust and that the instrument conforms in all respects to the requirements of law, and such conveyance, assignment or other transfer shall be admissible in evidence without further proof of execution.

(k) The trust shall not engage in any activity or transaction that is not expressly authorized by this act.

(l) No trustee shall be charged personally with any liability whatsoever by reason of any act or omission in the performance of the trust or in the operation of the trust property but any act, liability for any omission or obligation of a trustee or trustees, in the execution of the trust, or in the operation of the trust property, shall extend to the whole of the trust, or so much thereof as may be necessary to discharge such liability or obligation, and not otherwise.

(m) Moneys from grants made to the trust pursuant to this act shall be used only for the purposes provided by this act, including payment of the costs of the department of health and environment in implementing and administering this act.

(n) On July 1, 2014, or on the date that all of the rights and title to all real and personal property acquired by the trust have been conveyed, assigned or otherwise transferred in the name of the trust pursuant to K.S.A. 2020 Supp. 49-511 through 49-517, and amendments thereto, and the instruments of conveyance, assignment or other transfer have been finally executed, whichever date occurs first, the trust is hereby abolished and the office of each member of the trust is hereby abolished.

Sec. 39. On and after January 1, 2022, K.S.A. 2020 Supp. 58-652 is hereby amended to read as follows: 58-652. (a) The authority granted by a principal to an attorney in fact in a written power of attorney is not terminated in the event the principal becomes wholly or partially disabled or in the event of later uncertainty as to whether the principal is dead or alive if:

(1) The power of attorney is denominated a "durable power of attorney";

(2) the power of attorney includes a provision that states in substance one of the following:

(A) "This is a durable power of attorney and the authority of my attorney in fact shall not terminate if I become disabled or in the event of later uncertainty as to whether I am dead or alive"; or

(B) "This is a durable power of attorney and the authority of my attorney in fact, when effective, shall not terminate or be void or voidable if I am or become disabled or in the event of later uncertainty as to whether I am dead or alive"; and

(3) the power of attorney is signed by the principal, and dated and acknowledged in the manner prescribed by ~~K.S.A. 53-501 et seq., and amendments thereto~~ *the revised uniform law on notarial acts*. If the principal is physically unable to sign the power of attorney but otherwise competent and conscious, the power of attorney may be signed by an adult designee of the principal in the presence of the principal and at the specific direction of the principal expressed in the presence of a notary public. The designee shall sign the principal's name to the power of attorney in the presence of a notary public, following which the document shall be acknowledged in the manner prescribed by ~~K.S.A. 53-501 et seq., and amendments thereto~~ *the revised uniform law on notarial acts*, to the same extent and effect as if physically signed by the principal.

(b) All acts done by an attorney in fact pursuant to a durable power of attorney shall inure to the benefit of and bind the principal and the principal's successors in interest, notwithstanding any disability of the principal.

(c) (1) A power of attorney does not have to be recorded to be valid and binding between the principal and attorney in fact or between the principal and third persons.

(2) A power of attorney may be recorded in the same manner as a conveyance of land is recorded. A certified copy of a recorded power of attorney may be admitted into evidence.

(3) If a power of attorney is recorded any revocation of that power of attorney must be recorded in the same manner for the revocation to be effective. If a power of attorney is not recorded it may be revoked by a recorded revocation or in any other appropriate manner.

(4) If a power of attorney requires notice of revocation be given to named persons, those persons may continue to rely on the authority set forth in the power of attorney until such notice is received.

(d) A person who is appointed an attorney in fact under a durable power of attorney has no duty to exercise the authority conferred in the power of attorney, unless the attorney in fact has agreed expressly in writing to act for the principal in such circumstances. An agreement to act on behalf of the principal is enforceable against the attorney in fact as a fiduciary without regard to whether there is any consideration to support a contractual obligation to do so. Acting for the principal in one or more transactions does not obligate an attorney in fact to act for the principal in subsequent transactions.

(e) The grant of power or authority conferred by a power of attorney in which any principal shall vest any power or authority in an attorney in fact, if such writing expressly so provides, shall be effective only upon: (1) A specified future date; (2) the occurrence of a specified future event; or (3) the existence of a specified condition which may occur in the future. In the absence of actual knowledge to the contrary, any person to whom

such writing is presented shall be entitled to rely on an affidavit, executed by the attorney in fact, setting forth that such event has occurred or condition exists.

Sec. 40. On and after January 1, 2022, K.S.A. 58-2209 is hereby amended to read as follows: 58-2209. All deeds or other conveyances of lands, or of any estate or interest therein, shall be subscribed by the party granting the same, or by the party's lawful agent or attorney, and may be acknowledged or proved and certified in the manner prescribed by the *revised* uniform law on notarial acts and K.S.A. 58-2216, and amendments thereto.

Sec. 41. On and after January 1, 2022, K.S.A. 58-2211 is hereby amended to read as follows: 58-2211. All conveyances, and other instruments affecting real estate must be acknowledged before a person authorized by the *revised* uniform law on notarial acts to perform notarial acts or, if acknowledged within this state, by a county clerk, register of deeds or mayor or clerk of an incorporated city.

Sec. 42. On and after January 1, 2022, K.S.A. 2020 Supp. 58-4403 is hereby amended to read as follows: 58-4403. ~~On and after July 1, 2007:~~ (a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this act.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression or seal is not required to accompany an electronic signature.

Sec. 43. On and after January 1, 2022, K.S.A. 16-1611, 53-101, 53-102, 53-103, 53-104, 53-105, 53-105a, 53-106, 53-107, 53-109, 53-113, 53-114, 53-115, 53-116, 53-117, 53-119, 53-120, 53-501, 53-502, 53-503, 53-504, 53-505, 53-506, 53-507, 53-508, 53-510, 53-511, 58-2209 and 58-2211 and K.S.A. 2020 Supp. 25-3602, 25-3902, 25-3902a, 25-3904, 25-3904a, 49-512, 53-118, 53-121, 53-509, 58-652 and 58-4403 are hereby repealed.

Sec. 44. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2021.

CHAPTER 65

SENATE BILL No. 122

AN ACT concerning civil procedure; relating to the rules of evidence; methods to satisfy requirement to authenticate or identify records and documents; amending K.S.A. 60-464 and 60-467 and K.S.A. 2020 Supp. 60-460 and 60-465 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 60-460 is hereby amended to read as follows: 60-460. Evidence of a statement which is made other than by a witness while testifying at the hearing, offered to prove the truth of the matter stated, is hearsay evidence and inadmissible except:

(a) *Previous statements of persons present.* A statement previously made by a person who is present at the hearing and available for cross-examination with respect to the statement and its subject matter, provided the statement would be admissible if made by *the* declarant while testifying as a witness.

(b) *Affidavits.* Affidavits, to the extent admissible by the statutes of this state.

(c) *Depositions and prior testimony.* Subject to the same limitations and objections as though the declarant were testifying in person: (1) Testimony in the form of a deposition taken in compliance with the law of this state for use as testimony in the trial of the action in which offered; or (2) if the judge finds that the declarant is unavailable as a witness at the hearing, testimony given as a witness in another action or in a preliminary hearing or former trial in the same action, or in a deposition taken in compliance with law for use as testimony in the trial of another action, when: (A) The testimony is offered against a party who offered it in the party's own behalf on the former occasion or against the successor in interest of such party; or (B) the issue is such that the adverse party on the former occasion had the right and opportunity for cross-examination with an interest and motive similar to that which the adverse party has in the action in which the testimony is offered, but the provisions of this subsection ~~(c)~~ shall not apply in criminal actions if it denies to the accused the right to meet the witness face to face.

(d) *Contemporaneous statements and statements admissible on ground of necessity generally.* A statement which the judge finds was made: (1) While the declarant was perceiving the event or condition which the statement narrates, describes or explains; (2) while the declarant was under the stress of a nervous excitement caused by such perception; or (3) if the declarant is unavailable as a witness, by the declarant at a time when the matter had been recently perceived by the declarant and while the declarant's recollection was clear and was made in good faith prior to the commencement of the action and with no incentive to falsify or to distort.

(e) *Dying declarations.* A statement by a person unavailable as a witness because of the person's death if the judge finds that it was made: (1) Voluntarily and in good faith; and (2) while the declarant was conscious of the declarant's impending death and believed that there was no hope of recovery.

(f) *Confessions.* In a criminal proceeding as against the accused, a previous statement by the accused relative to the offense charged, but only if the judge finds that the accused: (1) When making the statement was conscious and was capable of understanding what the accused said and did; and (2) was not induced to make the statement: (A) Under compulsion or by infliction or threats of infliction of suffering upon the accused or another, or by prolonged interrogation under such circumstances as to render the statement involuntary; or (B) by threats or promises concerning action to be taken by a public official with reference to the crime, likely to cause the accused to make such a statement falsely, and made by a person whom the accused reasonably believed to have the power or authority to execute the same.

(g) *Admissions by parties.* As against a party, a statement by the person who is the party to the action in the person's individual or a representative capacity and, if the latter, who was acting in such representative capacity in making the statement.

(h) *Authorized and adoptive admissions.* As against a party, a statement: (1) By a person authorized by the party to make a statement or statements for the party concerning the subject of the statement; or (2) of which the party with knowledge of the content thereof has, by words or other conduct, manifested the party's adoption or belief in its truth.

(i) *Vicarious admissions.* As against a party, a statement which would be admissible if made by the declarant at the hearing if: (1) The statement concerned a matter within the scope of an agency or employment of the declarant for the party and was made before the termination of such relationship; (2) the party and the declarant were participating in a plan to commit a crime or a civil wrong and the statement was relevant to the plan or its subject matter and was made while the plan was in existence and before its complete execution or other termination; or (3) one of the issues between the party and the proponent of the evidence of the statement is a legal liability of the declarant, and the statement tends to establish that liability.

(j) *Declarations against interest.* Subject to the limitations of the exception in subsection (f), a statement which the judge finds was at the time of the assertion so far contrary to the declarant's pecuniary or proprietary interest or so far subjected the declarant to civil or criminal liability or so far rendered invalid a claim by the declarant against another or created such risk of making the declarant an object of hatred, ridicule

or social disapproval in the community that a reasonable person in the declarant's position would not have made the statement unless the person believed it to be true.

(k) *Voter's statements.* A statement by a voter concerning the voter's qualifications to vote or the fact or content of the voter's vote.

(l) *Statements of physical or mental condition of declarant.* Unless the judge finds it was made in bad faith, a statement of the declarant's: (1) Then existing state of mind, emotion or physical sensation, including statements of intent, plan, motive, design, mental feeling, pain and bodily health, but not including memory or belief to prove the fact remembered or believed, when such a mental or physical condition is in issue or is relevant to prove or explain acts or conduct of the declarant; or (2) previous symptoms, pain or physical sensation, made to a physician consulted for treatment or for diagnosis with a view to treatment, and relevant to an issue of declarant's bodily condition.

(m) *Business entries and the like.* Writings offered as memoranda or records of acts, conditions or events to prove the facts stated therein, if ~~the judge finds that~~ *the following conditions are shown by the testimony of the custodian or other qualified witness, or by a certification that complies with K.S.A. 60-465(b)(7) or (8), and amendments thereto*: (1) They were made in the regular course of a business at or about the time of the act, condition or event recorded; and (2) the sources of information from which made and the method and circumstances of their preparation were such as to indicate their trustworthiness.

If the procedure specified by K.S.A. 60-245a(b), and amendments thereto, for providing business records has been complied with and no party has required the personal attendance of a custodian of the records or the production of the original records, the affidavit or declaration of the custodian shall be prima facie evidence that the records satisfy the requirements of this subsection.

(n) *Absence of entry in business records.* Evidence of the absence of a memorandum or record from the memoranda or records of a business of an asserted act, event or condition, to prove the nonoccurrence of the act or event, or the nonexistence of the condition, if the judge finds that it was the regular course of that business to make such memoranda of all such acts, events or conditions at the time thereof or within a reasonable time thereafter and to preserve them.

(o) *Content of official record.* Subject to K.S.A. 60-461, and amendments thereto: (1) If meeting the requirements of authentication under K.S.A. 60-465, and amendments thereto, to prove the content of the record, a writing purporting to be a copy of an official record or of an entry therein; (2) to prove the absence of a record in a specified office, a writing made by the official custodian of the official records of the office,

reciting diligent search and failure to find such record; or (3) to prove the absence of a record in the criminal justice information system central repository maintained by the Kansas bureau of investigation pursuant to K.S.A. 22-4705, and amendments thereto, a writing made by a person purporting to be an official custodian of the records of the Kansas bureau of investigation, reciting diligent search of criminal history record information and electronically stored information, as defined in K.S.A. 22-4701, and amendments thereto, and failure to find such record.

(p) *Certificate of marriage.* Subject to K.S.A. 60-461, and amendments thereto, certificates that the maker thereof performed marriage ceremonies, to prove the truth of the recitals thereof, if the judge finds that: (1) The maker of the certificates, at the time and place certified as the times and places of the marriages, was authorized by law to perform marriage ceremonies; and (2) the certificate was issued at that time or within a reasonable time thereafter.

(q) *Records of documents affecting an interest in property.* Subject to K.S.A. 60-461, and amendments thereto, the official record of a document purporting to establish or affect an interest in property, to prove the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the judge finds that: (1) The record is in fact a record of an office of a state or nation or of any governmental subdivision thereof; and (2) an applicable statute authorized such a document to be recorded in that office.

(r) *Judgment of previous conviction.* Evidence of a final judgment adjudging a person guilty of a felony, to prove any fact essential to sustain the judgment.

(s) *Judgment against persons entitled to indemnity.* To prove the wrong of the adverse party and the amount of damages sustained by the judgment creditor, evidence of a final judgment if offered by a judgment debtor in an action in which the debtor seeks to recover partial or total indemnity or exoneration for money paid or liability incurred by the debtor because of the judgment, provided the judge finds that the judgment was rendered for damages sustained by the judgment creditor as a result of the wrong of the adverse party to the present action.

(t) *Judgment determining public interest in land.* To prove any fact which was essential to the judgment, evidence of a final judgment determining the interest or lack of interest of the public or of a state or nation or governmental division thereof in land, if offered by a party in an action in which any such fact or such interest or lack of interest is a material matter.

(u) *Statement concerning one's own family history.* A statement of a matter concerning a declarant's own birth, marriage, divorce, legitimacy, relationship by blood or marriage, race-ancestry or other similar fact of

the declarant's family history, even though the declarant had no means of acquiring personal knowledge of the matter declared, if the judge finds that the declarant is unavailable.

(v) *Statement concerning family history of another.* A statement concerning the birth, marriage, divorce, death, legitimacy, race-ancestry, relationship by blood or marriage or other similar fact of the family history of a person other than the declarant if the judge finds that the declarant: (1) Was related to the other by blood or marriage, or was otherwise so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared, and made the statement as upon information received from the other or from a person related by blood or marriage to the other or as upon repute in the other's family; and (2) is unavailable as a witness.

(w) *Statement concerning family history based on statement of another declarant.* A statement of a declarant that a statement admissible under the exceptions in subsections (u) or (v) was made by another declarant, offered as tending to prove the truth of the matter declared by both declarants, if the judge finds that both declarants are unavailable as witnesses.

(x) *Reputation in family concerning family history.* Evidence of reputation among members of a family, if the reputation concerns the birth, marriage, divorce, death, legitimacy, race-ancestry or other fact of the family history of a member of the family by blood or marriage.

(y) *Reputation—boundaries, general history, family history.* Evidence of reputation in a community as tending to prove the truth of the matter reputed, if the reputation concerns: (1) Boundaries of or customs affecting, land in the community and the judge finds that the reputation, if any, arose before controversy; (2) an event of general history of the community or of the state or nation of which the community is a part and the judge finds that the event was of importance to the community; or (3) the birth, marriage, divorce, death, legitimacy, relationship by blood or marriage, or race-ancestry of a person resident in the community at the time of the reputation, or some other similar fact of the person's family history or of the person's personal status or condition which the judge finds likely to have been the subject of a reliable reputation in that community.

(z) *Reputation as to character.* If a trait of a person's character at a specified time is material, evidence of the person's reputation with reference thereto at a relevant time in the community in which the person then resided or in a group with which the person then habitually associated, to prove the truth of the matter reputed.

(aa) *Recitals in documents affecting property.* Evidence of a statement relevant to a material matter, contained in a deed of conveyance or a will or other document purporting to affect an interest in property, offered as tending to prove the truth of the matter stated, if the judge finds that: (1)

The matter stated would be relevant upon an issue as to an interest in the property; and (2) the dealings with the property since the statement was made have not been inconsistent with the truth of the statement.

(bb) *Commercial lists and the like.* Evidence of statements of matters of interest to persons engaged in an occupation contained in a list, register, periodical or other published compilation, to prove the truth of any relevant matter so stated, if the judge finds that the compilation is published for use by persons engaged in that occupation and is generally used and relied upon by them.

(cc) *Learned treatises.* A published treatise, periodical or pamphlet on a subject of history, science or art, to prove the truth of a matter stated therein, if the judge takes judicial notice, or a witness expert in the subject testifies, that the treatise, periodical or pamphlet is a reliable authority in the subject.

(dd) *Actions involving children.* In a criminal proceeding or a proceeding pursuant to the revised Kansas juvenile justice code or in a proceeding to determine if a child is a child in need of care under the revised Kansas code for care of children, a statement made by a child, to prove the crime or that a child is a juvenile offender or a child in need of care, if:

(1) The child is alleged to be a victim of the crime or offense or a child in need of care; and

(2) the trial judge finds, after a hearing on the matter, that the child is disqualified or unavailable as a witness, the statement is apparently reliable and the child was not induced to make the statement falsely by use of threats or promises.

If a statement is admitted pursuant to this subsection in a trial to a jury, the trial judge shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, the nature of the statement, the circumstances under which the statement was made, any possible threats or promises that might have been made to the child to obtain the statement and any other relevant factor.

(ee) *Certified motor vehicle certificate of title history.* Subject to K.S.A. 60-461, and amendments thereto, a certified motor vehicle certificate of title history prepared by the division of vehicles of the Kansas department of revenue.

Sec. 2. K.S.A. 60-464 is hereby amended to read as follows: 60-464. ~~Authentication of a writing is required before it may be received in evidence. Authentication may be by evidence sufficient to sustain a finding of its authenticity or by any other means provided by law. If the judge finds that a writing (1) is at least thirty years old at the time it is offered, and (2) is in such condition as to create no suspicion concerning its authenticity, and (3) at the time of its discovery was in a place in which such~~

~~a document, if authentic, would be likely to be found, it is sufficiently authenticated~~ *(a) In general. To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.*

(b) Examples. The following are examples only, not a complete list, of evidence that satisfies the requirement:

(1) Testimony of a witness with knowledge. Testimony that an item is what it is claimed to be.

(2) Nonexpert opinion about handwriting. A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) Comparison by an expert witness or the trier of fact. A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) Distinctive characteristics and the like. The appearance, contents, substance, internal patterns or other distinctive characteristics of the item, taken together with all the circumstances.

(5) Opinion about a voice. An opinion identifying a person's voice, whether heard firsthand or through mechanical or electronic transmission or recording, based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) Evidence about a telephone conversation. For a telephone conversation, evidence that a call was made to the number assigned at the time to:

(A) A particular person, if circumstances, including self-identification, show that the person answering was the one called; or

(B) a particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) Evidence about public records. Evidence that:

(A) A document was recorded or filed in a public office as authorized by law; or

(B) a purported public record or statement is from the office where items of this kind are kept.

(8) Evidence about ancient documents or data compilations. For a document or data compilation, evidence that it:

(A) Is in a condition that creates no suspicion about its authenticity;

(B) was in a place where, if authentic, it would likely be; and

(C) is at least 30 years old when offered.

(9) Evidence about a process or system. Evidence describing a process or system and showing that it produces an accurate result.

(10) Methods provided by a statute or rule. Any method of authentication or identification allowed by law or a rule prescribed by the supreme court.

Sec. 3. K.S.A. 2020 Supp. 60-465 is hereby amended to read as follows: 60-465. *(a) Public documents.* A writing purporting to be a copy of an official record or of an entry therein, meets the requirements of au-

thentication if the judge finds that the writing purports to be published by authority of the nation, state or subdivision thereof, in which the record is kept or evidence has been introduced sufficient to warrant a finding that the writing is a correct copy of the record or entry. Extrinsic evidence of authenticity as a condition precedent to admissibility is not required if:

(1) The office in which the record is kept is within this state and the writing is attested as a correct copy of the record or entry by a person purporting to be an officer, or a deputy of an officer, having the legal custody of the record;

(2) the office in which the record is kept is within this state and the record is attested by a person purporting to be an official custodian of the records of the Kansas bureau of investigation as a correct copy of criminal history record information or electronically stored information, as defined in K.S.A. 22-4701, and amendments thereto, accessed through the criminal justice information system central repository maintained by the Kansas bureau of investigation pursuant to K.S.A. 22-4705, and amendments thereto;

(3) the office in which the record is kept is within the United States or territory or insular possession subject to the dominion of the United States and the writing is attested to as required in paragraph (1) and authenticated by seal of the office having custody or, if that office has no seal, by a public officer having a seal and having official duties in the district or political subdivision in which the records are kept who certifies under seal that such officer has custody; or

(4) the office in which the record is kept is in a foreign state or country, the writing is attested as required in paragraph (1) and is accompanied by a certificate that such officer has the custody of the record which certificate may be made by a secretary of an embassy or legation, consul general, consul, vice-consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of that office.

(b) Self-authenticating evidence. The following items of evidence are self-authenticating and require no extrinsic evidence of authenticity in order to be admitted:

(1) Official publications. A book, pamphlet or other publication purporting to be issued by a public authority.

(2) Newspapers and periodicals. Printed material purporting to be a newspaper or periodical.

(3) Trade inscriptions and the like. An inscription, sign, tag or label purporting to have been affixed in the course of business and indicating origin, ownership or control.

(4) Acknowledged documents. A document accompanied by a certificate of acknowledgment that is lawfully executed by a notary public or another officer who is authorized to take acknowledgments.

(5) Commercial paper and related documents. Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.

(6) Presumptions under law. A signature, document or anything else that a state or federal statute declares to be presumptively or prima facie genuine or authentic.

(7) Certified domestic records of a regularly conducted activity. The original or a copy of a domestic record that meets the requirements of K.S.A. 60-460(m), and amendments thereto, as shown by a certification of the custodian or another qualified person, in an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, or a rule prescribed by the supreme court. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record, and must make the record and certification available for inspection, so that the party has a fair opportunity to challenge them.

(8) Certified foreign records of a regularly conducted activity. The original or a copy of a foreign record that meets the requirements of paragraph (7), modified as follows: The certification, rather than complying with a statute or supreme court rule, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of paragraph (7).

(9) Certified records generated by an electronic process or system. A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of paragraph (7) or (8). The proponent must also meet the notice requirements of paragraph (7).

(10) Certified data copied from an electronic device, storage medium or file. Data copied from an electronic device, storage medium or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of paragraph (7) or (8). The proponent must also meet the notice requirements of paragraph (7).

Sec. 4. K.S.A. 60-467 is hereby amended to read as follows: 60-467. (a) ~~As tending to prove the content of a writing, no evidence other than the writing itself is admissible, except as otherwise provided in these rules, unless the judge finds that:~~ *An original writing, recording or photograph is required in order to prove its content unless these rules or a statute provide otherwise.*

(b) A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate.

~~(1)~~*(c)* If ~~the~~ *a* writing is a telefacsimile communication ~~as defined in subsection (d)~~ and is used by the proponent or opponent as the writing

itself, such telefacsimile communication shall be considered as ~~the writing itself,~~ *an original.*

~~(2) (A)~~ *(d) An original is not required and other evidence of the content of a writing, recording or photograph is admissible if:*

(1) The writing*, recording or photograph* is lost or has been destroyed without fraudulent intent on the part of the proponent~~, (B)~~*;*

(2) the writing*, recording or photograph* is outside the reach of the court's process and not procurable by the proponent~~, (C)~~*;*

(3) the opponent, at a time when the writing*, recording or photograph* was under the opponent's control, has been notified, expressly or by implication from the pleadings, that it would be needed at the hearing, and on request at the hearing has failed to produce it~~, (D)~~*;*

(4) the writing*, recording or photograph* is not closely related to the controlling issues and it would be inexpedient to require its production~~, (E)~~*;*

(5) the writing is an official record, or is a writing affecting property authorized to be recorded and actually recorded in the public records as described in ~~exception (s) of~~ K.S.A. 60-460*(s),* and amendments thereto*;* or ~~(F)~~

(6) calculations or summaries of content are called for as a result of an examination by a qualified witness of multiple or voluminous writings, ~~which~~ *and such writings* cannot be conveniently examined in court, but the adverse party shall have had a reasonable opportunity to examine such records before trial, and such writings are present in court for use in cross-examination, or the adverse party has waived their production, or the judge finds that their production is unnecessary.

~~(b) If the judge makes one of the findings specified in subsection (a), secondary evidence of the content of the writing is admissible. If evidence is offered by the opponent tending to prove that (1) the asserted writing never existed, (2) a writing produced at the trial is the asserted writing or (3) the secondary evidence does not correctly reflect the content of the asserted writing, the evidence is irrelevant and inadmissible upon the question of admissibility of the secondary evidence but is relevant and admissible upon the issues of the existence and content of the asserted writing to be determined by the trier of fact.~~

(e) The proponent may prove the content of a writing, recording or photograph by the testimony, deposition or written statement of the party against whom the evidence is offered. The proponent need not account for the original.

(f) Ordinarily, the court determines whether the proponent has fulfilled the factual conditions for admitting other evidence of the content of a writing, recording or photograph under subsection (d). But in a jury trial, the jury determines any issue about whether:

(1) An asserted writing, recording or photograph ever existed;

(2) another one produced at the trial or hearing is the original; or

(3) other evidence of content accurately reflects the content.

~~(c)~~*(g)* If the procedure specified by ~~subsection (b) of~~ K.S.A. 60-245a*(b)*, and amendments thereto, for providing business records has been complied with and no party has required the personal attendance of a custodian of the records or the production of the original records, the copy of the records produced shall not be excluded under subsection (a).

~~(d)~~*(h)* ~~As used in~~ *The following definitions apply to* this section~~,~~*:*

(1) "Telefacsimile communication" means the use of electronic equipment to send or transfer a copy of an original document via telephone lines.

(2) "Photograph" means a photographic image or its equivalent stored in any form.

(3) "Original" of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, "original" means any printout, or other output readable by sight, if it accurately reflects the information. An "original" of a photograph includes the negative or a print from it.

(4) "Duplicate" means a counterpart produced by a mechanical, photographic, chemical, electronic or other equivalent process or technique that accurately reproduces the original.

Sec. 5. K.S.A. 60-464 and 60-467 and K.S.A. 2020 Supp. 60-460 and 60-465 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 21, 2021.

CHAPTER 66

Senate Substitute for HOUSE BILL No. 2201

AN ACT concerning transportation; relating to the Eisenhower legacy transportation program; decreasing the threshold amount required for alternate delivery projects; providing for the usage of federal stimulus funds for certain projects; calculating KDOT bonding and debt cap authority; amending K.S.A. 68-2320 and 68-2328 and K.S.A. 2020 Supp. 68-2314c, 68-2332 and 75-5094 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 68-2314c is hereby amended to read as follows: 68-2314c. (a) In order to plan, develop and operate or coordinate the development and operation of the various modes and systems of transportation within the state, the secretary of transportation is hereby authorized and directed to initiate the Eisenhower legacy transportation program.

(b) (1) The Eisenhower legacy transportation program shall provide for the construction, improvement, reconstruction and maintenance of the state highway system. The program shall provide for the selection of projects that will allow for the flexibility to meet emerging and economic needs. Program expenditures may include, but may not be limited to, the following:

(A) Preservation projects to efficiently maintain a state highway system in its original or improved condition and in a state of good repair. The secretary shall establish targets for the state highway system condition that reflect the reasonable, realistic expectations that have historically existed in providing a safe and efficient state highway system. The secretary shall utilize reasonable, sound and accepted methods to determine the annual preservation investment needed to achieve the state targets and provide optimum cost effectiveness in keeping the long-term state highway system condition meeting such targets. It is the intent of the legislature that the secretary, prior to completion of the transportation program, shall spend or encumber from the state highway fund preservation projects in an amount equal to or exceeding 10 times the determined average annual preservation investment. The secretary shall manage cash-flow and project lettings such that there is reasonable assurance that preservation projects shall be fully funded each year. Pursuant to this subparagraph, preservation projects refer to maintenance, repairs or replacement of existing infrastructure. Federal funding from federal grants or federal stimulus may be used for preservation projects;

(B) preservation plus projects to efficiently maintain a state highway system and include additional safety or technology elements, or both, in the preservation project. Such additional elements may include, but may not be limited to, adding paved shoulders, adding passing lanes, adding

traffic signals, adding intelligent transportation system elements or laying broadband fiber or the conduit for broadband fiber. It is the intent of the legislature that the secretary has the authority to enhance preservation plus projects with the addition of safety or technology improvements, or both. Federal funding from federal grants or federal stimulus may be used for preservation plus projects;

(C) expansion and economic opportunity projects, that include additions to the transportation system, or that improve access, relieve congestion and enhance economic development opportunities. The Kansas department of transportation shall develop and utilize criteria for the selection of expansion and economic opportunity projects. The selection criteria shall include, but shall not be limited to, engineering and traffic data, local consultation, geographic distribution and an economic impact analysis evaluation; and

(D) modernization projects that include improvements to the transportation system by widening lanes or shoulders, making geometric improvements, upgrading interchanges or building rail grade separations to improve the safety, condition or service of the highway system. The Kansas department of transportation shall develop and utilize criteria for the selection of modernization projects. The selection criteria shall include, but shall not be limited to, engineering data, local consultation and geographic distribution.

(2) The department of transportation shall develop criteria for the incorporation of practical improvements into designs of the projects specified in this subsection.

(c) *(1)* Except as further provided, the Eisenhower legacy transportation program shall provide for the completion of modernization and expansion projects selected for construction under the transportation works for Kansas program pursuant to K.S.A. 68-2314b, and amendments thereto. Such projects shall be let prior to July 1, 2023. The secretary shall let to construction contract at least one phase of each remaining transportation works for Kansas program project before any new modernization or expansion project, or both, under the Eisenhower legacy transportation program are let to construction. A transportation works for Kansas program selected project in Harvey county generally described as an approximate one-mile reconstruction of the I-135 and 36th street interchange may not be constructed. If such project is not constructed, the estimated construction costs for such project shall be used on other construction projects in the Kansas department of transportation's south-central district.

(2) Notwithstanding the provisions of paragraph (1), the secretary may let to construction at any time any modernization or expansion projects under the Eisenhower legacy transportation program that utilize federal stimulus funds regardless of whether transportation works for Kansas

program projects, or any phase thereof, have been let. No moneys received from federal stimulus funds shall be expended pursuant to this paragraph 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. 75-3711c(c), and amendments thereto.

(d) The Eisenhower legacy transportation program shall provide for assistance, including credit and credit enhancements, to cities and counties in meeting their responsibilities for the construction, improvement, reconstruction and maintenance of transportation improvements. Such programs may use criteria developed by the Kansas department of transportation for the incorporation of practical improvements into designs of projects. Expenditures under this subsection may include, but may not be limited to, the following:

(1) Apportionment of the special city and county highway fund to assist cities and counties with their responsibilities for roads and bridges not on the state highway system;

(2) programs to share federal aid with cities and counties to assist with their responsibilities for roads and bridges not on the state highway system;

(3) programs to assist cities with the maintenance of city connecting links as specified in K.S.A. 68-416, and amendments thereto, and local partnership programs to resurface or geometrically improve city connecting links or to promote economic development;

(4) programs similar to the Kansas department of transportation's local bridge improvement program to aid local public authorities in replacing or repairing bridges not on the state highway system;

(5) programs to assist cities and counties with railroad crossings of roads not on the state highway system; or

(6) programs that allow local governments to exchange federal aid funds for state funds.

(e) The Eisenhower legacy transportation program shall provide for a railroad program to provide assistance in accordance with K.S.A. 75-5040 through 75-5050, and amendments thereto, for the preservation and revitalization of rail service in the state.

(f) The Eisenhower legacy transportation program shall provide for an aviation program to provide assistance for the planning, constructing, reconstructing or rehabilitating the facilities of public use general aviation airports, in accordance with K.S.A. 75-5061, and amendments thereto.

(g) The Eisenhower legacy transportation program shall provide for public transit programs to aid elderly persons, persons with disabilities and the general public, in accordance with K.S.A. 75-5032 through 75-5038 and 75-5051 through 75-5058, and amendments thereto.

(h) The Eisenhower legacy transportation program shall provide for a transportation technology program to provide for multimodal transportation-related projects that support innovative technology, in accordance with K.S.A. 2020 Supp. 75-5093, and amendments thereto.

(i) The Eisenhower legacy transportation program shall provide for a multimodal program to provide transportation improvement assistance for bike facilities, pedestrian facilities or other transportation-sensitive economic opportunities on a local or a regional basis.

(j) The Eisenhower legacy transportation program shall allow the secretary to award certain state highway system projects using alternative delivery procurement methods, other than an award of a design-bid-build, as provided for in K.S.A. 2020 Supp. 68-2332, and amendments thereto.

(k) The Eisenhower legacy transportation program shall provide for a broadband infrastructure construction program, in accordance with K.S.A. 2020 Supp. 75-5094, and amendments thereto.

(l) (1) State highway fund revenues that include, but are not limited to, motor fuel taxes, vehicle registrations, sales and compensating use taxes and eligible federal aid shall be used in the following order of priority:

(A) To pay bond covenant obligations;

(B) to pay for agency operations;

(C) to make city connecting link payments authorized under K.S.A. 68-416, and amendments thereto; and

(D) to pay for needed preservation projects as set forth in subsection (b)(1).

(2) Any such revenues not spent pursuant to subsection (l)(1)(A) through (D) may be used for other purposes and authority given to the secretary.

(3) All new bonds issued for the purposes of the Eisenhower legacy transportation program shall be paid using all state highway fund revenue, including revenue collected or received pursuant to K.S.A. 79-3620(c) and 79-3710(c), and amendments thereto.

(m) (1) The secretary shall, using the Kansas department of transportation selection methods and criteria, determine the projects to be selected for inclusion under the Eisenhower legacy transportation program. Consideration may be given to additional criteria that may include projects that:

(A) Remove transportation infrastructure from the state highway system;

(B) identify priority corridors;

(C) include local monetary participation; or

(D) reduce project size.

(2) (A) It is the intent of the legislature that the secretary shall develop a metric-driven process that determines a reasonable and fair minimum amount of state highway fund moneys to be spent on new

modernization and expansion projects in each of the Kansas department of transportation's districts over the duration of the Eisenhower legacy transportation program.

(B) The process for determining the minimum amount of modernization and expansion project moneys shall be subject to the following:

(i) Adding together the minimum moneys set for each of the Kansas department of transportation's districts pursuant to paragraph (2)(A), the total shall be at least 50% of the estimated cost of constructing all modernization and expansion projects let to contract in the Eisenhower legacy transportation program.

(ii) If the estimated cost of constructing all modernization and expansion projects in the Eisenhower legacy transportation program increases or decreases by more than 10%, then the minimum amount will be adjusted accordingly while still satisfying ~~subparagraph~~ *paragraph* (2)(B)(i).

(iii) For each of the Kansas department of transportation's districts, at least 40% of the minimum amounts determined in paragraph (2)(A), or adjusted amounts according to paragraph (2)(B)(ii), shall be let to construction contract by the end of year five of the Eisenhower legacy transportation program, and 100% of the minimum amounts determined in paragraph (2)(A), or adjusted amounts according to paragraph (2)(B)(ii), shall be let to construction contract by year 10 of the Eisenhower legacy transportation program.

(iv) Any modernization or expansion projects remaining from the transportation works for Kansas program pursuant to K.S.A. 68-2314b, and amendments thereto, shall not be considered when determining the minimum amounts in paragraph (2)(A) or (2)(B)(i).

(3) The secretary shall select projects for development every two years. The secretary shall select projects for construction every two years. The secretary is not required to construct every project selected for development. The selection of projects for development and construction shall take place every two years, after consultation with local jurisdictions.

(n) It is the intent of the legislature that the secretary take the actions necessary to have transportation improvement projects ready to let to construction as cash-flow management allows.

(o) The secretary, prior to June 30, 2030, shall develop a long-range transportation plan that examines, but is not limited to, transportation policy, project selection criteria and selection methods used in the Eisenhower legacy transportation program, transportation funding sources and Eisenhower legacy transportation program project categories. The long-range transportation plan shall make recommendations for a new transportation program for the state of Kansas. The long-range transportation plan shall be developed after consultation with the governor of the state of Kansas and state and local elected officials.

Sec. 2. K.S.A. 68-2320 is hereby amended to read as follows: 68-2320. (a) On and after July 1, 1991, the secretary of transportation is hereby authorized and empowered to issue bonds of the state of Kansas, payable solely from revenues accruing to the state highway fund and transferred to the highway bond debt service fund and pledged to their payment, for the purpose of providing funds to pay costs relating to construction, reconstruction, maintenance or improvement of highways in this state and to pay all expenses incidental thereto and to the bonds. The secretary is hereby authorized to issue bonds the total principal amount of which shall not exceed $890,000,000.

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

(c) (1) In addition to the provisions of subsections (a) and (b), on and after July 1, 2010, the secretary of transportation is hereby authorized and empowered to issue additional bonds of the state of Kansas, payable solely from revenues accruing to the state highway fund and transferred to the highway bond debt service fund and pledged to their payment, for the purpose of providing funds to pay costs relating to construction, reconstruction, maintenance or improvement of highways in this state and to pay all expenses incidental thereto and to the bonds. On and after the effective date of this act, except as provided further, no bonds shall be issued by the secretary pursuant to this subsection unless the secretary certifies that, as of the date of issuance of any such series of additional bonds, the maximum annual debt service on all outstanding bonds issued pursuant to this section and K.S.A. 68-2328, and amendments thereto, including the bonds to be issued on such date, will not exceed 18% of projected state highway fund revenues for the current or any future fiscal year. During the fiscal year ending June 30, 2018, and the fiscal year ending June 30, 2019, the limitation on the amount of the maximum total amount of principal on all outstanding bonds issued pursuant to this subsection and K.S.A. 68-2328, and amendments thereto, for the purpose of issuing any such series of additional bonds authorized by the secretary shall be $1,700,000,000 of the total principal for the transportation works for Kansas program authorized under K.S.A. 68-2314b et seq., and amendments thereto. The provisions of this section relating to limitations of bonded indebtedness

shall not in any way impair the rights and remedies of the holders of any bonds issued prior to the effective date of this act.

(2) As used in this subsection:

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

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

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

(D) "fiscal year" means the fiscal year of the state.

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

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

(d) In accordance with procurement statutes, the secretary may contract with financial advisors, attorneys and such other professional ser-

vices as the secretary deems necessary to carry out the provisions of this act, and to do all things necessary or convenient to carry out the powers expressly granted in this act.

Sec. 3. K.S.A. 68-2328 is hereby amended to read as follows: 68-2328. (a) Bonds may be issued for the purpose of refunding, either at maturity or in advance of maturity, any bonds issued under this act, any interest on such bonds or both bonds and the interest thereof. Such refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may either be applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the secretary and the authorizing resolution or trust indenture securing such refunding bonds. The authorizing resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same security for their payment as provided for the bonds being refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this act pertaining to the sale and security of the bonds. Any bonds that have been issued pursuant to this section shall not be counted toward the limit on the aggregate principal amount of bonds established under ~~subsections (a) and (b) of~~ K.S.A. 68-2320*(a) and (b)*, and amendments thereto, *and such bonds shall not be subject to the limitations on the issuance of bonds established under K.S.A. 68-2320(c), and amendments thereto*.

(b) When all bonds issued under article 23 of chapter 68 of the Kansas Statutes Annotated, and amendments thereto, have either been paid or the lien of such bonds shall have been defeased in accordance with their terms so that the bonds are deemed to have been paid, the secretary of transportation shall certify such facts to the director of accounts and reports and upon receipt of such certification the director of accounts and reports shall transfer all moneys in the state freeway fund to the state highway fund and upon such transfer all liabilities of the state freeway fund are hereby transferred to and imposed upon the state highway fund and the state freeway fund is hereby abolished. Upon the abolition of the state freeway fund, any reference to the state freeway fund or any designation thereof, in any statute, contract or other document shall mean the state highway fund.

Sec. 4. K.S.A. 2020 Supp. 68-2332 is hereby amended to read as follows: 68-2332. (a) The Eisenhower legacy transportation program shall allow the secretary of transportation to award certain state highway system projects using alternative delivery procurement methods other than award of a design-bid-build contract to the lowest bidder as provided in K.S.A. 68-410, and amendments thereto, subject to the following:

(1) Projects selected for alternative delivery shall not include preservation projects as described in K.S.A. 2020 Supp. 68-2314c, and amendments thereto;

(2) alternative delivery may be used on three projects utilizing toll revenues for construction and maintenance of the project. One project utilizing toll revenues may be let to construction once every three years;

(3) not more than 3% of dollars spent in the Eisenhower legacy transportation program shall be used on alternative delivery. An additional 2% of dollars spent in the Eisenhower legacy transportation program shall be available for use on alternative delivery starting in fiscal year 2023. The dollar value of the three projects utilizing toll revenues referenced in paragraph (2) and projects obtained through federal grants or federal stimulus shall not be considered in determining the limits set forth in this paragraph; and

(4) any project utilizing alternative delivery shall equal or exceed ~~$100,000,000~~ *$10,000,000* in costs.

(b) In addition to the requirements in subsection (a), alternative delivery projects in the Eisenhower legacy transportation program shall be subject to the following requirements and restrictions:

(1) Procurement methods for transportation alternative delivery projects may provide for a single contract or multiple contracts that include, but are not limited to, services for preconstruction, design, construction, construction management, maintenance, operation, financing or a combination thereof;

(2) the Kansas department of transportation shall develop and utilize criteria for selecting whether alternative delivery or design-bid-build procurement process is in the best interest of the state. No project will be selected for alternative delivery without having been evaluated under the selection criteria established by the department. The selection criteria shall include, but not be limited to, the need for accelerated schedule, safety needs, project complexity, opportunity for innovation and economic development; *and*

(3) the Kansas department of transportation shall develop and utilize procedures for advertising proposals, receiving proposals, evaluating proposals, awarding contracts and administering contracts in its alternative delivery procurement program, and the procurement procedures in K.S.A. 68-408 through 68-410, 75-430a and 75-5804 through 75-5807, and amendments thereto, shall not apply to transportation alternative delivery projects.

(c) Notwithstanding any requirements set forth in subsections (b) or (c), the alternative delivery procedures shall include:

(1) A two-phase best value competitive selection or contracting process in which the first phase consists of short listing no more than four proposers based on qualifications identified in the request for qualifications and the second phase consists of the submission of price or technical proposals, or both, in response to a request for proposal;

(2) advertisement of requests for qualifications in the Kansas register for at least three consecutive weeks;

(3) prequalification of contractors performing construction and of firms performing professional technical services by the secretary in accordance with existing state statutes, regulations, and department procedures governing prequalification and licensing;

(4) a bond for performance and payment or alternative security guaranteeing contract performance and payment obligations for supplies, materials and labor furnished for the alternative delivery project; and

(5) a requirement that firms and key personnel identified in the qualifications phase and scored to determine the shortlist may not be replaced during the alternative delivery project without the Kansas department of transportation's written approval.

(d) Notwithstanding any other provision of law to the contrary, a contracting entity selected for an alternative delivery project shall not be in violation of K.S.A. 74-7001 et seq., and amendments thereto, and the contract entered into by such contractor shall not be void if such contractor obtains the professional services by subcontracting with an entity or entities duly licensed or holding a certificate of authorization to perform professional services in accordance with K.S.A. 74-7001 et seq., and amendments thereto.

(e) Notwithstanding the provisions of K.S.A. 68-419a, and amendments thereto, a contracting entity selected for an alternative delivery project that is responsible for preparing or furnishing design plans and specifications, through its own organization or by subcontracting as provided in subsection (d), shall be liable for damages arising out of design defects in such plans and specifications resulting in injury to persons or damage to property, occurring after completion of the contract and acceptance thereof by the Kansas department of transportation, if and to the extent such injury or damage arises out of a failure to exercise the degree of learning and skill ordinarily possessed by a reputable contractor or by a technical professional practicing in Kansas in the same or similar locality and under similar circumstances. Nothing contained in this subsection shall be construed as abrogating, limiting or otherwise affecting any cause of action accruing to the state or any agency or instrumentality thereof that was a party to such contract.

Sec. 5. K.S.A. 2020 Supp. 75-5094 is hereby amended to read as follows: 75-5094. (a) The secretary of transportation is hereby authorized and empowered to make grants for construction projects, the purpose of which is to expand and improve broadband service in the state of Kansas. The secretary of transportation is authorized to make such grants when working jointly with the office of broadband development within the department of commerce.

(b) There is hereby established in the state treasury the broadband infrastructure construction grant fund. All moneys credited to such fund shall be used to provide grants for the expansion of broadband service in the state of Kansas. All expenditures from such fund shall be made in accordance with the provisions of appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or the secretary's designee.

(c) Grants made by the secretary of transportation from the broadband infrastructure construction grant fund shall reimburse grant recipients for up to 50% of actual construction costs in expanding and improving broadband service in the state of Kansas. Such grant reimbursements shall be upon such terms and conditions as the secretary of transportation may deem appropriate, in coordination with the secretary of commerce.

(d) On July 1, 2020, and each July 1 thereafter through July 1, 2022, the director of accounts and reports shall transfer $5,000,000 from the state highway fund to the broadband infrastructure construction grant fund. On July 1, 2023, and each July *1* thereafter through July 1, 2030, the director of accounts and reports shall transfer $10,000,000 from the state highway fund to the broadband infrastructure construction grant fund. At the end of each fiscal year, the secretary of transportation is hereby authorized to notify the director of accounts and reports to transfer all remaining and unencumbered funds from the broadband infrastructure construction grant fund to the state highway fund.

Sec. 6. K.S.A. 68-2320 and 68-2328 and K.S.A. 2020 Supp. 68-2314c, 68-2332 and 75-5094 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 21, 2021.

CHAPTER 67

HOUSE BILL No. 2408*

AN ACT concerning the disposition of certain state real property; authorizing the state historical society to convey certain real property located in Doniphan county; imposing certain conditions; prescribing costs of conveyance.

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

Section 1. (a) Subject to the provisions of this section, the state historical society, for and on behalf of the state of Kansas, is hereby authorized to convey to the Iowa Tribe of Kansas and Nebraska all of the rights, title and interest in the following described real estate, and any improvements thereon, located in Doniphan county, Kansas, containing 9.86 acres more or less:

A tract of land beginning at a point on the east line of section 24, Township 2 south, Range 19 east of the 6th Principal Meridian 570 feet north of the center of the slab on U.S. highway No. 36, thence north on the section line 848.5 feet; thence west 334 feet; thence north 45 degrees and 25 minutes west 233 feet; thence north 87 degrees and 19 minutes west 145.5 feet; thence south 26 degrees and 10 minutes west 377.5 feet; thence south 52 degrees and 41 minutes east 242 feet; thence south 48 degrees and 10 minutes east 818 feet to point of beginning; all in the East half of the East half of said Section 24.

(b) Conveyance of such rights, title and interest in such real estate, and any improvements thereon, shall be executed in the name of the state historical society by the executive director of the state historical society by quitclaim deed without the necessity of appraisal, bid or publication and shall not be subject to the provisions of K.S.A. 75-3043a, and amendments thereto. No exchange and conveyance of real estate, and any improvements thereon, as authorized by this section shall be made by the executive director until the deeds and conveyances have been reviewed and approved by the attorney general.

(c) The property to be conveyed is listed in the national register of historic places as "Iowa, Sac and Fox Presbyterian Mission." The Iowa Tribe of Kansas and Nebraska agrees to pay all costs related to the conveyance and shall grant the state a historic preservation easement that will reflect current federal preservation laws regarding properties listed in the national register of historic places.

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

Approved April 21, 2021.

CHAPTER 68

SENATE BILL No. 142

AN ACT concerning wildlife, parks and recreation; updating the reference to the guidelines of the American fisheries society; requiring personal flotation devices as prescribed by the secretary of wildlife, parks and tourism in rules and regulations; amending K.S.A. 32-1129 and K.S.A. 2020 Supp. 32-1005 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 32-1005 is hereby amended to read as follows: 32-1005. (a) Commercialization of wildlife is knowingly committing any of the following, except as permitted by statute or rules and regulations:

(1) Capturing, killing or possessing, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(2) selling, bartering, purchasing or offering to sell, barter or purchase, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(3) shipping, exporting, importing, transporting or carrying; causing to be shipped, exported, imported, transported or carried; or delivering or receiving for shipping, exporting, importing, transporting or carrying all or any part of any wildlife protected by this section, for profit or commercial purposes; or

(4) purchasing, for personal use or consumption, all or any part of any wildlife protected by this section.

(b) The wildlife protected by this section and the minimum value thereof are as follows:

(1) Eagles, $1,000;

(2) deer or antelope, $1,000;

(3) elk or buffalo, $1,500;

(4) furbearing animals, except bobcats, $25;

(5) bobcats, $200;

(6) wild turkey, $200;

(7) owls, hawks, falcons, kites, harriers or ospreys, $500;

(8) game birds, migratory game birds, resident and migratory nongame birds, game animals and nongame animals, $50 unless a higher amount is specified above;

(9) fish and mussels, the value for which shall be no less than the value listed for the appropriate fish or mussels species in the monetary values of freshwater fish or mussels and fish kill counting guidelines of the American fisheries society, special publication number ~~30~~ 35;

(10) turtles, $25 each for unprocessed turtles or $16 per pound or fraction of a pound for processed turtle parts;

(11) bullfrogs, $4, whether dressed or not dressed;

(12) any wildlife classified as threatened or endangered, $500 unless a higher amount is specified above; and

(13) any other wildlife not listed above, $25.

(c) Possession of wildlife, in whole or in part, captured or killed in violation of law and having an aggregate value of $1,000 or more, as specified in subsection (b), is prima facie evidence of possession for profit or commercial purposes.

(d) Commercialization of wildlife having an aggregate value of $1,000 or more, as specified in subsection (b), is a severity level 10, nonperson felony. Commercialization of wildlife having an aggregate value of less than $1,000, as specified in subsection (b), is a class A nonperson misdemeanor.

(e) In addition to any other penalty provided by law, a court convicting a person of the crime of commercialization of wildlife may:

(1) Confiscate all equipment used in the commission of the crime and may revoke for a period of up to 20 years all licenses and permits issued to the convicted person by the Kansas department of wildlife, parks and tourism; and

(2) order restitution to be paid to the Kansas department of wildlife, parks and tourism for the wildlife taken~~, which~~. *Such* restitution shall be in an amount not less than the aggregate value of the wildlife, as specified in subsection (b).

(f) The provisions of this section shall apply only to wildlife illegally harvested and possessed by any person having actual knowledge that such wildlife was illegally harvested.

Sec. 2. K.S.A. 32-1129 is hereby amended to read as follows: 32-1129. (a) ~~The operator of every vessel shall require every~~ *(1) No operator of any vessel may operate such vessel while any* person 12 years of age or under ~~to wear~~ *is aboard or being towed by such vessel unless such person is either:*

(A) Wearing a United States coast ~~Guard approved type I, type II or type III~~ *guard-approved* personal flotation device *as prescribed in rules and regulations of the secretary of wildlife, parks and tourism*~~while aboard or being towed by such vessel~~*; or*

(B) is below decks or in an enclosed cabin.

(2) A life belt or ring shall not satisfy the requirement of this section.

(b) Violation of subsection (a) shall constitute a class C misdemeanor.

Sec. 3. K.S.A. 32-1129 and K.S.A. 2020 Supp. 32-1005 are hereby repealed.

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

Approved April 21, 2021.

Published in the *Kansas Register* April 29, 2021.

CHAPTER 69

SENATE BILL No. 143

AN ACT concerning agriculture; relating to grain warehouses; updating definitions; increasing maximum functional unit license and storage fees; amending K.S.A. 34-2,107 and 34-2,111 and K.S.A. 2020 Supp. 34-223, 34-228 and 34-2,112 and repealing the existing sections; also repealing K.S.A. 34-136.

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

Section 1. K.S.A. 2020 Supp. 34-223 is hereby amended to read as follows: 34-223. As used in chapter 34 of Kansas Statutes Annotated, and amendments thereto:

(a) "Action" includes counterclaim, setoff and suit in equity.

(b) "Delivery" means voluntary transfer of possessions from one person to another.

(c) "Fungible grain" means grain of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit.

(d) "Grain" means wheat, corn, oats, barley, rye, soybeans, grain sorghums and any grains upon which federal grain standards are established~~, also~~. *"Grain" includes* seeds generally stored by warehouses, if special permission is granted by the secretary.

(e) "Holder of a receipt" means a person who has both actual possession of such receipt and a right of property therein.

(f) "Order" means an order by endorsement of the receipt.

(g) "Owner" does not include mortgagee or pledgee.

(h) "Person" includes individuals, corporations, partnerships and all associations of two or more persons having a joint or common interest.

(i) "To purchase" includes to take as mortgagee or pledgee.

(j) "Receipt" means a warehouse receipt or receipts.

(k) "Value" means any consideration sufficient to support a simple contract and includes an antecedent or preexisting obligation, whether for money or not, where a receipt is taken either in satisfaction thereof or as security therefor.

(l) "Public warehouseman" means a person lawfully engaged in the business of storing grain for the public.

(m) "Public warehouse" or "public grain warehouse" means every elevator or other building in which grain is received for storage or transfer for the public.

(n) "Secretary" means the secretary of *the Kansas department of* agriculture *or the secretary's designee*.

(o) "Department" means the Kansas department of agriculture.

(p) "Grain bank grain" means any grain that has been received into any public warehouse to be held for the account of the depositor and returned to the depositor at a later date either as whole or processed grain.

(q) "Storage grain" or "stored grain" means grain that has been received in any public warehouse located in this state, and such grain is not purchased by the lessee, owner or manager of such warehouse.

(r) "Functional unit" means a public warehouse that has the capacity to store, weigh in and weigh out grain. The storage capacity of any outlying storage facility of a public warehouse that is not a functional unit itself shall be included as part of the combined capacity of the warehouseman's nearest functional unit.

(s) "Open storage" means the storage of grain pursuant to the issuance of a scale ticket, regardless of whether the grain is retained in the warehouse that issued the scale ticket or elsewhere.

(t) "Owner" means the holder of any warehouse receipt or any ticket for grain held in storage by a public warehouseman, regardless of whether the grain for which the warehouse receipt or ticket was issued is stored at the warehouse that issued the receipt or ticket or is stored elsewhere.

(u) "Deferred payment" means any payment to be made pursuant to the terms of a grain purchase contract after the delivery of grain to a public warehouseman.

(v) "Delayed pricing" means any method of pricing grain pursuant to the terms of a grain purchase contract after the delivery of grain to a public warehouseman.

(w) "Financial institution" means any institution whose deposits, shares or accounts are insured by a federal agency or any bank for cooperative created pursuant to title III of the farm credit act of 1971.

(x) "Standby letter of credit" means "letter of credit" as that term is defined in K.S.A. 84-5-103, and amendments thereto, that by its terms:

(1) Is irrevocable;

(2) is nontransferrable;

(3) names the seller that produced the grain as beneficiary;

(4) shall not expire earlier than 60 calendar days after the final payment is due pursuant to the terms of the underlying grain purchase contract; and

(5) cannot be drawn upon by the beneficiary in the absence of a default as defined by the terms of the underlying grain purchase contract.

(y) "Unpaid balance" means that portion of the purchase price under a grain purchase contract, together with an interest thereon, if any, that remains due and owing to the seller pursuant to the terms of the grain purchase contract at the time the seller makes a demand for payment as provided in the contract. If a grain purchase contract provides for delayed pricing and the price has not been established at the time the seller makes demand for payment, then for the purposes of this section only, the unpaid balance shall be determined as though the price had been established at the time of the closing of the relevant futures market on the last trading day before the seller made a demand for payment.

Sec. 2. K.S.A. 2020 Supp. 34-228 is hereby amended to read as follows: 34-228. (a) Any person desiring to engage in business as a public warehouseman in this state shall, before the transaction of any such business *and annually thereafter*, make written application to the secretary for a license for each separate warehouse or, if the applicant owns more than one warehouse at one point, all ~~of~~ such warehouses may be incorporated in one application, at which the person desires to engage in such business. The application for a license shall be on a form designated by the secretary and shall contain the individual name and address of each person interested as principal in the business and, if the business is operated or to be operated by a corporation, ~~setting forth~~ *providing* the names of the president and secretary, and ~~such further~~ *any additional* information as the secretary may require.

(b) (1) Every application for a public warehouse license shall be accompanied by a current financial statement. The statement shall include such information as required by the secretary to administer and enforce the public warehouse laws of this state, including, but not limited to, a current balance sheet, statement of income, including profit and loss, statement of retained earnings and statement of changes in financial position. The applicant shall certify under oath that the statement as prepared accurately reflects the financial condition of the applicant as of the date specified and presents fairly the results of operations of the applicant's public warehouse business for the period specified. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by:

(A) A report of audit or review conducted by an independent certified public accountant ~~or an independent public accountant~~ in accordance with standards established by the American institute of certified public accountants and the accountant's certifications, assurances, opinions, comments and notes with respect to the statement; or

(B) a compilation report of the financial statement, prepared by a grain commission firm or management firm which is authorized pursuant to rules and regulations of the federal commodity credit corporation to provide compilation reports of financial statements of warehousemen.

(2) Except as otherwise provided, the secretary, upon request of an applicant, may grant a waiver of the requirements of this subsection for a period of not more than 30 days if the applicant furnishes evidence of good and substantial reasons for the waiver. The secretary may extend such waiver beyond 30 days for grain stored in an alternative location other than a location identified in the public warehouse license, if the secretary determines that the owner of the grain would suffer substantial hardship to require the grain to be stored at a location identified in the license. The secretary may determine what constitutes substantial

hardship and what length of time the grain may be stored at such alternative location.

(c) (1) Every applicant for a license to operate one or more public warehouses and every person licensed to operate one or more warehouses shall at all times maintain total net worth liable for the payment of any indebtedness arising from the conduct of the warehouse or warehouses equal to at least $.25 per bushel of the storage capacity of the warehouse or warehouses except:

(A) No person shall be granted a license or shall continue to be licensed unless the person has a net worth of at least $25,000; and

(B) any deficiency in net worth required above the $25,000 minimum may be supplied by an increase in the amount of the applicant's or licensee's bond or letter of credit as provided by K.S.A. 34-229, and amendments thereto.

(2) In determining total net worth:

(A) Credit may be given for insurable property such as buildings, machinery, equipment and merchandise inventory only to the extent that the property is protected by insurance against loss or damage by fire; and

(B) capital stock, as such, shall not be considered a liability.

(d) No license shall be issued to a person or entity not previously licensed in this state and making application for an original license who, in this state or any other jurisdiction, within the 10 years immediately prior to the date of the application of the person or entity for a license, has been convicted of or has pleaded guilty or nolo contendere to any crime which would constitute:

(1) Embezzlement;

(2) any felony defined in any statute contained in article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the Kansas Statutes Annotated, or subsection (a)(6) of K.S.A. 2020 Supp. 21-6412, and amendments thereto;

(3) unauthorized delivery of stored goods;

(4) any felony defined in any statute contained in chapter 34 of the Kansas Statutes Annotated, and amendments thereto; or

(5) a violation of the United States warehouse act (7 U.S.C. § 241 et seq.).

(e) The secretary may investigate any applicant making application for an original license for the purpose of determining if such person would be qualified to receive such license under the provisions of this section.

(f) (1) Every application for a public warehouse license shall be accompanied by a *functional unit* license fee ~~which shall be determined and fixed by the secretary by rules and regulations. The license fee shall not be more than the applicable amount shown in the following fee schedule plus not more than $500 for each functional unit:~~ *not to exceed $500 for*

each functional unit, plus a storage fee based on the total storage capacity of each warehouse, which is the total capacity of all functional units operated by a licensee. Both the functional unit license fee and the storage fee shall be determined by the secretary in rules and regulations, except that the storage fee shall not exceed the following amounts:

Total Grain Warehouse Capacity in Bushels	~~ANNUAL~~ *STORAGE* FEE Not more than
1 to 100,000	~~$500.00~~ *$740*
100,001 to 150,000	~~525~~ *800*
150,001 to 250,000	~~550~~ *850*
250,001 to 300,000	~~600~~ *910*
300,001 to 350,000	~~625~~ *960*
350,001 to 400,000	~~650~~ *1,020*
400,001 to 450,000	~~700~~ *1,060*
450,001 to 500,000	~~725~~ *1,120*
500,001 to 600,000	~~775~~ *1,160*
600,001 to 700,000	~~800~~ *1,220*
700,001 to 800,000	~~850~~ *1,570*
800,001 to 900,000	~~875~~ *1,620*
900,001 to 1,000,000	~~900~~ *1,660*
1,000,001 to 1,750,000	~~1225~~ *2,260*
1,750,001 to 2,500,000	~~1400~~ *2,590*
2,500,001 to 5,000,000	~~1750~~ *3,230*
5,000,001 to 7,500,000	~~2100~~ *3,880*
7,500,001 to 10,000,000	~~2375~~ *4,390*
10,000,001 to 12,500,000	~~2600~~ *4,810*
12,500,001 to 15,000,000	~~2800~~ *5,180*
15,000,001 to 17,500,000	~~3000~~ *5,550*
17,500,001 to 20,000,000	~~3225~~ *5,960*
For each 2,500,000 bushels or fraction over 20,000,000 bushels	~~350~~ *650*

(2) Whenever a licensed warehouseman purchases or acquires additional facilities, the warehouseman, if otherwise qualified, may acquire a license for the remainder of an unexpired license period by paying to the secretary a license fee computed as follows: If the unexpired license period is nine months or more, the ~~annual~~ fee; if the unexpired license period is more than six months and less than nine months, 75% of the ~~annual~~ fee; if the unexpired license period is more than three months and ~~not more~~ *less* than six months, 50% of the ~~annual~~ fee; and if the unexpired license period is three months or less than three months, 25% of the ~~annual~~ fee.

(3) In addition to any other applicable fee, the secretary shall charge and collect a fee each time a public warehouse license is amended in an amount of not more than $300 which shall be determined and fixed by the secretary by rules and regulations.

(4) Nothing in this subsection shall be construed to authorize a refund for any unused portion of an issued license.

(g) The secretary shall examine each warehouse operated by a licensed public warehouseman ~~at least once in~~ *not less than once during* each ~~12-month~~ *18-month* period*, but examinations may be conducted more frequently as the secretary determines is necessary to protect the public*. The licensed public warehouseman may request additional examinations of any warehouse operated by the warehouseman. The cost of additional examinations when requested by the warehouseman shall be charged to the warehouseman requesting the examination. The cost of each additional examination requested by a warehouseman shall be an amount determined therefor in accordance with an hourly rate fixed by the secretary of not more than $50 per hour, subject to a minimum charge of four hours for the examination, plus amounts for subsistence expense at the rate fixed under K.S.A. 75-3207a, and amendments thereto, and for mileage expense in accordance with the schedule of charges established under K.S.A. 75-4607, and amendments thereto. The secretary, at the secretary's discretion, may make additional examinations of a warehouse and if a discrepancy is found on that examination, or if one was found on the last previous examination, the cost of the examination shall be paid by the warehouseman.

(h) When the secretary authorizes a grain handling facility to be physically monitored, pursuant to ~~subsection (a)(3) of~~ K.S.A. 34-102*(a)(3)*, and amendments thereto, the cost and expenses of the monitoring shall be paid by the owner of the facility at the same rates fixed in subsection (g).

~~(i) As used in this section, "functional unit" means a public warehouse which has the capacity to store, weigh in and weigh out grain. Any outlying storage facility which is not a functional unit shall have its storage capacity included as part of the combined capacity of the warehouseman's nearest functional unit.~~

Sec. 3. K.S.A. 34-2,107 is hereby amended to read as follows: 34-2,107. The owner of grain held in storage by a public warehouseman, as defined in K.S.A. 34-223, *and amendments thereto,* in this state, whether such grain is held under open storage or pursuant to the issuance of a warehouse receipt, shall have a prior right to such grain against any other person, subject only to the payment of accrued warehouse charges and the satisfaction of any lien or liens upon such grain and valid against the owner thereof, until the grain is either removed from storage by the owner or sold by the owner.

~~As used in this section, the term "open storage" means the storage of grain pursuant to the issuance of a scale ticket regardless of whether the grain is retained in the warehouse or elsewhere; and the term "owner" means the holder of any warehouse receipt or receipts or of any scale ticket or tickets for grain held in storage by a public warehouseman.~~

Sec. 4. K.S.A. 34-2,111 is hereby amended to read as follows: 34-2,111. (a) Whenever a public warehouseman offers to purchase grain pursuant to a grain purchase contract which includes provision for deferred payment or delayed pricing of the grain, the public warehouseman shall inform the seller that such grain purchase contract is a voluntary extension of credit and is not protected by the surety bond or letter of credit, pursuant to K.S.A. 34-229, and amendments thereto, of the public warehouseman.

(b) Each grain purchase contract which contains a provision for deferred payment or delayed pricing, or both such provisions, shall be in writing and shall include the following statement: "THIS CONTRACT CONSTITUTES A VOLUNTARY EXTENSION OF CREDIT BY THE SELLER TO THE PUBLIC WAREHOUSEMAN AND IS NOT PROTECTED BY THE SURETY BOND OR LETTER OF CREDIT OF THE PUBLIC WAREHOUSEMAN." The statement shall be prominently displayed in capital letters ~~which~~ *that* are at least as large as 10-point type and shall be followed by a signature line ~~which~~ *that* has the following statement in parentheses under the line: "Must be signed by seller." Such statements and signature line shall be framed in a box and placed on the first page of the grain purchase contract as a part thereof so that it stands out from the other provisions of the grain purchase contract.

(c) If a public warehouseman has entered into a written grain purchase contract with a seller that produced the grain and if such grain purchase contract provides for either deferred payment or delayed pricing, or both, then, upon demand of the seller made after delivery of such grain to the public warehouseman, the public warehouseman shall cause a financial institution to issue to the seller a standby letter of credit in the amount of the unpaid balance under the grain purchase contract at the time such demand is made. Each public warehouseman who offers to enter into such a grain purchase contract with any seller that produced the grain shall post a sign providing public notice of the availability of such standby letter of credit.

~~(d) As used in this section:~~

~~(1) "Deferred payment" means any payment to be made under the terms of a grain purchase contract after delivery of the grain to the public warehouseman;~~

~~(2) "delayed pricing" means any method of pricing grain under the terms of a grain purchase contract after such grain has been delivered to the public warehouseman;~~

~~(3) "financial institution" means any institution whose deposits, shares or accounts are insured by a federal agency or banks for cooperatives created under title III of the farm credit act of 1971;~~

~~(4) "standby letter of credit" means a letter of credit within the meaning of K.S.A. 84-5-103(1)(a), and amendments thereto, which, by its terms:~~

~~(A) Is irrevocable;~~

~~(B) is nontransferable;~~

~~(C) names the seller that produced the grain as beneficiary;~~

~~(D) shall not expire earlier than 60 days after the final payment is due under the terms of the underlying grain purchase contract; and~~

~~(E) cannot be drawn upon by the beneficiary in the absence of a default in payment under the terms of the underlying grain purchase contract;~~

~~(5) "unpaid balance" means that portion of the purchase price, together with interest thereon, if any, remaining unpaid to the seller under the terms of a grain purchase contract at the time the seller makes demand as provided in this section. Where the grain purchase contract provides for delayed pricing and the price has not been established at the time demand is made by the seller, then, for the purposes of this section only, the unpaid balance shall be determined as though the price had been established at the time of the closing of the relevant futures market on the last trading day before demand is made by the seller under this section.~~

~~(c) As used in this section, the words and phrases defined in K.S.A. 34-223, and amendments thereto, shall have the meanings ascribed to them in that statute.~~

~~(f)~~*(d)* This section shall be ~~construed as~~ *a part of and* supplemental to the statutes contained in article 2 of chapter 34 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 5. K.S.A. 2020 Supp. 34-2,112 is hereby amended to read as follows: 34-2,112. (a) Whenever any amount of grain is received in any public warehouse from a producer and is sold by the producer, or if a grain producer delivers grain for sale pursuant to an agreement with the public warehouseman for deferred payment or deferred pricing, and if upon demand for payment by the producer, the warehouseman fails to make full payment as due or makes payment by check that fails because of insufficient funds to clear the bank or other financial institution on which it is drawn within 15 days after the date the check is issued or the demand is made, excluding Saturdays, Sundays and holidays, the sale of such amount of grain may be voided by the producer by notifying the public warehouseman in writing that the sale is void. In any such case, the public warehouseman shall include such amount of grain in the public warehouseman's daily position record and other records as an open storage obligation upon receiving such written notice voiding the sale.

~~(b) As used in this section, the words and phrases defined in K.S.A. 34-223, and amendments thereto, shall have the meanings ascribed to them in that statute.~~

~~(c)~~*(b)* This section shall be ~~construed as~~ *a part of and* supplemental to the statutes contained in article 2 of chapter 34 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 6. K.S.A. 34-136, 34-2,107 and 34-2,111 and K.S.A. 2020 Supp. 34-223, 34-228 and 34-2,112 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 21, 2021.

CHAPTER 70

Substitute for HOUSE BILL No. 2066

AN ACT concerning occupational regulation; relating to occupational licenses for certain applicants; temporary emergency licenses; electronic credentials; amending K.S.A. 2020 Supp. 48-3406 and repealing the existing section.

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

Section 1. K.S.A. 2020 Supp. 48-3406 is hereby amended to read as follows: 48-3406. (a) For the purposes of this section:

(1) *"Applicant" means an individual who is a military spouse, military servicemember or an individual who has established or intends to establish residency in this state. "Applicant" with respect to law enforcement certification by the Kansas commission on peace officers' standards and training means an applicant who has met the employment requirement pursuant to K.S.A. 74-5605(a), and amendments thereto.*

(2) "Complete application" means the licensing body has received all forms, fees, documentation, a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate and any other information required or requested by the licensing body for the purpose of evaluating the application, consistent with this section and the rules and regulations adopted by the licensing body pursuant to this section. If the licensing body has received all such forms, fees, documentation and any other information required or requested by the licensing body, an application shall be deemed to be a complete application even if the licensing body has not yet received a criminal background report from the Kansas bureau of investigation.

(3) "Licensing body" means an official, agency, board or other entity of the state which authorizes individuals to practice a profession in this state and issues a license, registration, certificate, permit or other authorization to an individual so authorized~~.~~.

~~(2)~~*(4)* "Military servicemember" means a *current* member of ~~the army, navy, marine corps, air force, air or army~~ *any branch of the United States armed services, United States military reserves or* national guard of any state~~, coast guard or any branch of the military reserves of the United States; and~~ *or a former member with an honorable discharge.*

~~(3)~~*(5)* "Military spouse" means the spouse of ~~an individual who is currently in active service in any branch of the armed forces of the United States~~ *a military servicemember.*

(6) "Private certification" means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation as determined by the private organization.

(7) "Scope of practice" means the procedures, actions, processes and work that a person may perform under a government issued license, registration or certification.

(b) Notwithstanding any other provision of law, any licensing body shall~~:~~

~~(1)~~ , upon submission of a ~~completed~~ *complete* application, issue a license, registration or certification to ~~a nonresident military spouse~~ *an applicant as provided by this section*, so that the ~~nonresident military spouse~~ *applicant* may lawfully practice the person's occupation~~; and~~

~~(2) upon submission of a completed application within six months following release from military service, issue a license, registration or certification to a military servicemember with an honorable discharge so that the military servicemember may lawfully practice the military servicemember's occupation~~.

(c) ~~A military servicemember with an honorable discharge or nonresident military spouse~~ *An applicant who holds a valid current license, registration or certification in another state, district or territory of the United States* shall receive a license, registration or certification ~~under subsection (b) of this section~~:

(1) *If the applicant qualifies under the applicable Kansas licensure, registration or certification by endorsement, reinstatement or reciprocity statutes, then* pursuant to applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state for the ~~profession~~ license, registration or certification within ~~60~~ *15* days from the date a complete application was submitted *if the applicant is a military servicemember or military spouse or within 45 days from the date a complete application was submitted for all other applicants*; or

(2) *if the applicant does not qualify under the applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state, or* if the *Kansas* professional practice act does not have licensure, registration or certification by endorsement, reinstatement or reciprocity statutes, then *the applicant shall receive a license, registration or certification as provided herein if*, at the time of application, the ~~military servicemember or nonresident military spouse~~ *applicant*:

(A) Holds a *valid* current license, registration or certification in another state, district or territory of the United States with licensure, registration or certification requirements that the licensing body determines ~~are equivalent to~~ *authorize a similar scope of practice as* those established by the licensing body of this state*, or holds a certification issued by another state for practicing the occupation but this state requires an occupational license, and the licensing body of this state determines that the*

certification requirements certify a similar scope of practice as the licensing requirements established by the licensing body of this state;

(B) *has worked for at least one year in the occupation for which the license, certification or registration is sought;*

(C) has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension or revocation *of the license, certificate or registration,* or that the applicant has never been censured or had other disciplinary action taken or had an application for licensure, registration or certification denied or refused to practice an occupation for which the ~~military servicemember or nonresident military spouse~~ *applicant* seeks licensure, registration or certification;

~~(C)~~*(D)* has not been disciplined by a licensing, registering, certifying or other credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding conducted by a licensing, registering, certifying or other credentialing entity in another jurisdiction nor has surrendered their membership on any professional staff in any professional association or society or faculty for another state or jurisdiction while under investigation or to avoid adverse action for acts or conduct similar to acts or conduct ~~which~~ *that* would constitute grounds for disciplinary action in a Kansas practice act;

~~(D)~~*(E) does not have a disqualifying criminal record as determined by the licensing body of this state under Kansas law;*

(F) provides proof of solvency, financial standing, bonding or insurance if required by the licensing body of this state, but only to the same extent as required of any applicant with similar credentials or experience;

(G) pays any fees required by the licensing body of this state; and

~~(E)~~*(H)* submits with the application a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate.

Upon receiving ~~such affidavit~~ *a complete application and the provisions of subsection (c)(2) apply and have been met by the applicant*, the licensing body shall issue the license, registration or certification within ~~60~~ *15* days from the date a complete application was submitted *by a military servicemember or military spouse, or within 45 days from the date a complete application was submitted by an applicant who is not a military servicemember or military spouse*, to the ~~military servicemember or nonresident military spouse~~ *applicant* on a probationary basis, but may revoke the license, registration or certification at any time if the information provided in the application is found to be false. ~~Any~~ *The* probationary ~~license issued under this subsection to a military servicemember or nonresident military spouse~~ *period* shall not exceed six months. *Upon completion of the probationary period, the license, certification or registration shall become a non-probationary license, certification or registration.*

(d) Any ~~person~~ *applicant* who has not been in the active practice of the occupation during the two years preceding the application for which the applicant seeks a license, registration or certification *under subsection (c)(2)* may be required to complete such additional testing, training, ~~mentoring,~~ monitoring or *continuing* education as the Kansas licensing body may deem necessary to establish the applicant's present ability to practice ~~with reasonable skill and safety~~ *in a manner that protects the health and safety of the public, as provided by subsection (j).*

(e) ~~A nonresident military spouse~~*Upon submission of a complete application, an applicant may receive an occupational license, registration or certification based on the applicant's work experience in another state, if the applicant:*

(1) Worked in a state that does not use an occupational license, registration, certification or private certification to regulate an occupation, but this state uses an occupational license, registration or certification to regulate the occupation;

(2) worked for at least three years in the occupation during the four years immediately preceding the application; and

(3) satisfies the requirements of subsection (c)(2)(C) through (H).

(f) Upon submission of a complete application, an applicant may receive an occupational license, registration or certification under subsection (b) based on the applicant's holding of a private certification and work experience in another state, if the applicant:

(1) Holds a private certification and worked in a state that does not use an occupational license or government certification to regulate an occupation, but this state uses an occupational license or government certification to regulate the occupation;

(2) worked for at least two years in the occupation;

(3) holds a current and valid private certification in the occupation;

(4) is held in good standing by the organization that issued the private certification; and

(5) satisfies the requirements of subsection (c)(2)(C) through (H).

(g) An applicant licensed, registered or certified under this section shall be entitled to the same rights and subject to the same obligations as are provided by the licensing body for Kansas residents, except that revocation or suspension of ~~a nonresident military spouse's~~ *an applicant's* license, registration or certificate in the ~~nonresident military spouse's~~ *applicant's* state of residence or any jurisdiction in which the ~~nonresident military spouse~~ *applicant* held a license, registration or certificate shall automatically cause the same revocation or suspension of such ~~nonresident military spouse's~~ *applicant's* license, registration or certificate in Kansas. No hearing shall be granted to ~~a nonresident military spouse~~ *an applicant* where such ~~nonresident military spouse's~~ *applicant's* license, registration

or certificate is subject to such automatic revocation or suspension, except for the purpose of establishing the fact of revocation or suspension of the ~~nonresident military spouse's~~ *applicant's* license, registration or certificate by the ~~nonresident military spouse's~~ *applicant's* state of residence *or jurisdiction in which the applicant held a license, registration or certificate*.

~~(f)~~*(h)* In the event the licensing body determines that the license, registration or certificate currently held by ~~the military servicemember or nonresident military spouse~~ *an applicant* under subsection ~~(c)(2)(A) is~~ *(c)(2) or the work experience or private credential held by an applicant under subsections (e) or (f), who is a military spouse or military servicemember does* not ~~equivalent to those~~ *authorize a similar scope of practice as the license, registration or certification* issued by the licensing body of this state, the licensing body ~~may~~ *shall* issue a temporary permit for a limited period of time to allow the ~~military servicemember or nonresident military spouse~~ *applicant* to lawfully practice the ~~military servicemember's or nonresident military spouse's~~ *applicant's* occupation while completing any specific requirements that are required in this state for licensure, registration or certification that ~~was~~ *were* not required in the state, district or territory of the United States in which the ~~military servicemember or nonresident military spouse~~ *applicant* was licensed, registered, certified or otherwise credentialed, *unless the licensing body finds, based on specific grounds, that issuing a temporary permit would jeopardize the health and safety of the public.*

(i) In the event the licensing body determines that the license, registration or certification currently held by an applicant under subsection (c)(2) or the work experience or private credential held by an applicant under subsections (e) or (f), who is not a military spouse or military servicemember, does not authorize a similar scope of practice as the license, registration or certification issued by the licensing body of this state, the licensing body may issue a temporary permit for a limited period of time to allow the applicant to lawfully practice the applicant's occupation while completing any specific requirements that are required in this state for licensure, registration or certification that was not required in the state, district or territory of the United States in which the applicant was licensed, registered, certified or otherwise credentialed, unless the licensing body finds, based on specific grounds, that issuing a temporary permit would jeopardize the health and safety of the public.

(j) Any testing, continuing education or training requirements administered under subsection (d), (h) or (i) shall be limited to Kansas law that regulates the occupation and that are materially different from or additional to the law of another state, or shall be limited to any materially different or additional body of knowledge or skill required for the occupational license, registration or certification in Kansas.

~~(g)~~*(k)* A licensing body may grant licensure, registration, certification or a temporary permit to any person who meets the requirements under this section but was separated from such military service under less than honorable conditions or with a general discharge under honorable conditions.

(l) Nothing in this section shall be construed to apply in conflict with or in a manner inconsistent with federal law or a multistate compact, or a rule or regulation or a reciprocal or other applicable statutory provision that would allow an applicant to receive a license. Nothing in this section shall be construed as prohibiting a licensing body from denying any application for licensure, registration or certification, or declining to grant a temporary or probationary license, if the licensing body determines that granting the application may jeopardize the health and safety of the public.

(m) Nothing in this section shall be construed to be in conflict with any applicable Kansas statute defining the scope of practice of an occupation. The scope of practice as provided by Kansas law shall apply to applicants under this section.

(n) Notwithstanding any other provision of law, during a state of emergency declared by the legislature, a licensing body may grant a temporary emergency license to practice any profession licensed, certified, registered or regulated by the licensing body to an applicant whose qualifications the licensing body determines to be sufficient to protect health and safety of the public and may prohibit any unlicensed person from practicing any profession licensed, certified, registered or regulated by the licensing body.

(o) Licensing bodies may provide electronic credentials to persons regulated by the licensing body. For purposes of this subsection, "electronic credential" means an electronic method by which a person may display or transmit to another person information that verifies a person's certification, licensure, registration or permit. A licensing body may prescribe the format or requirements of the electronic credential to be used by the licensing body. Any statutory or regulatory requirement to display, post or produce a credential issued by a licensing body may be satisfied by the proffer of an electronic credential authorized by the licensing body. A licensing body may use a third-party electronic credential system that is not maintained by the licensing body. Such electronic credential system shall include a verification system that is operated by the licensing body or its agent on behalf of the licensing body for the purpose of verifying the authenticity and validity of electronic credentials issued by the licensing body.

~~(h)~~*(p)* Each licensing body ~~may~~ *shall* adopt rules and regulations necessary to implement and carry out the provisions of this section.

~~(i)~~*(q)* This section shall not apply to the practice of law or the regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto.

(r) The state board of healing arts and the state board of technical professions, with respect to an applicant who is seeking a license to practice professional engineering or engage in the practice of engineering, as defined in K.S.A. 74-7003, and amendments thereto, may deny an application for licensure, registration or certification, or decline to grant a temporary or probationary license, if the board determines the applicant's qualifications are not substantially equivalent to those established by the board. Such boards shall not otherwise be exempt from the provisions of this act.

(s) This section shall apply to all licensing bodies not excluded under subsection (q), including, but not limited to:

(1) The abstracters' board of examiners;

(2) the board of accountancy;

(3) the board of adult care home administrators;

(4) the secretary for aging and disability services, with respect to K.S.A. 65-5901 et seq. and K.S.A. 65-6503 et seq., and amendments thereto;

(5) the Kansas board of barbering;

(6) the behavioral sciences regulatory board;

(7) the Kansas state board of cosmetology;

(8) the Kansas dental board;

(9) the state board of education;

(10) the Kansas board of examiners in fitting and dispensing of hearing instruments;

(11) the board of examiners in optometry;

(12) the state board of healing arts, as provided by subsection (r);

(13) the secretary of health and environment, with respect to K.S.A. 82a-1201 et seq., and amendments thereto;

(14) the commissioner of insurance, with respect to K.S.A. 40-241 and 40-4901 et seq., and amendments thereto;

(15) the state board of mortuary arts;

(16) the board of nursing;

(17) the state board of pharmacy;

(18) the Kansas real estate commission;

(19) the real estate appraisal board;

(20) the state board of technical professions, as provided by subsection (r); and

(21) the state board of veterinary examiners.

(t) All proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(u) Commencing on July 1, 2021, and each year thereafter, each licensing body listed in subsection (s)(1) through (21) shall provide a report for the period of July 1 through June 30 to the director of legislative

research by August 31 of each year, providing information requested by the director of legislative research to fulfill the requirements of this subsection. The director of legislative research shall develop the report format, prepare an analysis of the reports and submit and present the analysis to the office of the governor, the committee on commerce, labor and economic development of the house of representatives, the committee on commerce of the senate, the committee on appropriations of the house of representatives and the committee on ways and means of the senate by January 15 of the succeeding year. The director's report may provide any analysis the director deems useful and shall provide the following items, detailed by applicant type, including military servicemember, military spouse and non-military individual:

(1) The number of applications received under the provisions of this section;

(2) the number of applications granted under this section;

(3) the number of applications denied under this section;

(4) the average time between receipt of the application and completion of the application;

(5) the average time between receipt of a complete application and issuance of a license, certification or registration; and

(6) identification of applications submitted under this section where the issuance of credentials or another determination by the licensing body was not made within the time limitations pursuant to this section and the reasons for the failure to meet such time limitations.

All information shall be provided by the licensing body to the director of legislative research in a manner that maintains the confidentiality of all applicants and in aggregate form that does not permit identification of individual applicants.

Sec. 2. K.S.A. 2020 Supp. 48-3406 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 21, 2021.

CHAPTER 71

SENATE BILL No. 67
(Amended by Chapter 113)

AN ACT concerning traffic regulations; relating to motor vehicles; regulating vehicles in a funeral procession; permitting funeral escorts to direct funeral procession traffic through intersections and traffic control devices; requiring drivers to yield the right-of-way or move over for authorized utility or telecommunications vehicles; creating a traffic violation thereof; amending K.S.A. 2020 Supp. 8-2118 and repealing the existing section.

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

New Section 1. As used in sections 1 through 4, and amendments thereto:

(a) "Funeral procession" means two or more vehicles accompanying the body of a deceased person, or traveling to the cemetery, church, chapel or other location where the funeral service is to be held, in the daylights hours, including a funeral lead vehicle or a funeral escort.

(b) "Funeral lead vehicle" means any authorized law enforcement or nonlaw enforcement motor vehicle properly equipped pursuant to K.S.A. 8-1723, and amendments thereto, or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.

(c) "Funeral escort" means a person or entity that provides escort services for funeral processions, including law enforcement personnel and agencies and groups designated to escort military funeral processions.

New Sec. 2. (a) Notwithstanding any provision of state law, city ordinance or county resolution relating to traffic control devices or right-of-way provisions, pedestrians and operators of all vehicles, except as provided in subsection (b), funeral escorts may reasonably direct vehicle and pedestrian traffic to allow funeral processions to pass through intersections and disregard traffic control devices. When the funeral lead vehicle is directed by a funeral escort to lawfully enter an intersection, the remaining vehicles in the funeral procession may follow such funeral lead vehicle through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state law, city ordinance or county resolution.

(b) Funeral processions shall have the right-of-way at intersections regardless of traffic control devices, subject to the following conditions and exceptions:

(1) Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching authorized emergency vehicle, as defined in K.S.A. 8-1404, and amendments thereto, using an audible signal meeting the requirements of K.S.A. 8-1738, and amendments thereto, or a visual signal meeting the requirements of K.S.A. 8-1720, and amendments thereto;

(2) operators of vehicles in a funeral procession shall yield the right-of-way when directed by a police officer;

(3) operators of vehicles in a funeral procession shall exercise due care when participating in a funeral procession and avoid colliding with any other vehicle or pedestrian in accordance with K.S.A. 8-1535, and amendments thereto; and

(4) an operator of a vehicle in a funeral procession shall not have the right-of-way at an intersection, if the vehicle is more than 300 feet behind the immediately preceding vehicle in the funeral procession.

New Sec. 3. (a) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.

(b) In accordance with K.S.A. 8-1523, and amendments thereto, any state law, city ordinance or county resolution stating that motor vehicles shall be operated to allow sufficient space, enabling any other vehicle to enter and occupy such space without danger, shall not be applicable to funeral processions.

(c) Each vehicle that is a part of a funeral procession shall have such vehicle's headlights, either high beam or low beam, and tail lights lighted and may also use flashing hazard lights if the vehicle is so equipped.

New Sec. 4. Nothing in sections 1 through 3, and amendments thereto, shall be construed to prohibit any city or county from requiring:

(a) A law enforcement or nonlaw enforcement funeral lead vehicle or funeral escort for a funeral procession. A city or county and may require prior notice of a planned funeral procession be given to the city police department or the county sheriff; or

(b) compliance with any other city ordinance or county resolution not in conflict with the provisions of sections 1 through 3, and amendments thereto.

New Sec. 5. (a) The driver of a vehicle shall not overtake and pass another vehicle when approaching within 100 feet of a stationary authorized utility or telecommunications vehicle.

(b) The driver of a vehicle shall yield the right-of-way to any authorized utility or telecommunications vehicle or pedestrian actually engaged in work on the highway whenever such vehicle displays flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto.

(c) The driver of a motor vehicle, upon approaching a stationary authorized utility or telecommunications vehicle that is obviously and actually engaged in work upon a highway, when such authorized utility or telecommunications vehicle is displaying flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road and weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized public utility or telecommunications vehicle; or

(2) if the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type described in paragraph (1) but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road and weather and traffic conditions.

(d) This section shall not operate to relieve the driver of an authorized utility or telecommunications vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(e) As used in this section, "authorized utility or telecommunications vehicle" means:

(1) A motor vehicle operated by an authorized person as defined in K.S.A. 66-1710, and amendments thereto, for an electric or natural gas public utility as defined in K.S.A. 66-104, and amendments thereto, or a municipality-owned utility, when such motor vehicle is utilized for repairs that are needed on electric utility or natural gas equipment to restore necessary services or ensure public safety and is making use of visual signals meeting the requirements of K.S.A. 8-1731, and amendments thereto; and

(2) a motor vehicle operated by a provider, as defined in K.S.A. 17-1902, and amendments thereto, or a wireless infrastructure provider or a wireless services provider, as defined in K.S.A. 66-2019, and amendments thereto, when such vehicle is utilized for repairs and is making use of visual signals meeting the requirements of K.S.A. 8-1731, and amendments thereto.

(f) This section shall be a part of and supplemental to the uniform act regulating traffic on highways.

Sec. 6. K.S.A. 2020 Supp. 8-2118 is hereby amended to read as follows: 8-2118. (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified

in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made in any manner accepted by the court. The traffic citation shall not have been complied with if the payment is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine ~~which~~ *that* may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.

Description of Offense	*Statute*	*Fine*
Unsafe speed for prevailing conditions	8-1557	$75
Exceeding maximum speed limit; or speeding in zone posted by the state department of transportation; or speeding in locally posted zone	8-1558 to 8-1560 8-1560a or 8-1560b	1-10 mph over the limit, $45 11-20 mph over the limit, $45 plus $6 per mph over 10 mph over the limit; 21-30 mph over the limit, $105 plus $9 per mph over 20 mph over the limit; 31 and more mph over the limit, $195 plus $15 per mph over 30 mph over the limit;
Disobeying traffic control device	8-1507	$75
Violating traffic control signal	8-1508	$75
Violating pedestrian control signal	8-1509	$45
Violating flashing traffic signals	8-1510	$75
Violating lane-control signal	8-1511	$75
Unauthorized sign, signal, marking or device	8-1512	$45
Driving on left side of roadway	8-1514	$75

Failure to keep right to pass oncoming vehicle	8-1515	$75
Improper passing; increasing speed when passed	8-1516	$75
Improper passing on right	8-1517	$75
Passing on left with insufficient clearance	8-1518	$75
Driving on left side where curve, grade, intersection railroad crossing, or obstructed view	8-1519	$75
Driving on left in no-passing zone	8-1520	$75
Unlawful passing of stopped emergency vehicle	8-1520a	$75
Driving wrong direction on one-way road	8-1521	$75
Improper driving on laned roadway	8-1522	$75
Following too close	8-1523	$75
Improper crossover on divided highway	8-1524	$45
Failure to yield right-of-way at uncontrolled intersection	8-1526	$75
Failure to yield to approaching vehicle when turning left	8-1527	$75
Failure to yield at stop or yield sign	8-1528	$75
Failure to yield from private road or driveway	8-1529	$75
Failure to yield to emergency vehicle	8-1530	$195
Failure to yield to pedestrian or vehicle working on roadway	8-1531	$105
Failure to comply with restrictions in road construction zone	8-1531a	$45
Disobeying pedestrian traffic control device	8-1532	$45
Failure to yield to pedestrian in crosswalk; pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk	8-1533	$75

Improper pedestrian crossing	8-1534	$45
Failure to exercise due care in regard to pedestrian	8-1535	$45
Improper pedestrian movement in crosswalk	8-1536	$45
Improper use of roadway by pedestrian	8-1537	$45
Soliciting ride or business on roadway	8-1538	$45
Driving through safety zone	8-1539	$45
Failure to yield to pedestrian on sidewalk	8-1540	$45
Failure of pedestrian to yield to emergency vehicle	8-1541	$45
Failure to yield to blind pedestrian	8-1542	$45
Pedestrian disobeying bridge or railroad signal	8-1544	$45
Improper turn or approach	8-1545	$75
Improper "U" turn	8-1546	$75
Unsafe starting of stopped vehicle	8-1547	$45
Unsafe turning or stopping, failure to give proper signal; using turn signal unlawfully	8-1548	$75
Improper method of giving notice of intention to turn	8-1549	$45
Improper hand signal	8-1550	$45
Failure to stop or obey road crossing signal	8-1551	$195
Failure to stop at railroad crossing stop sign	8-1552	$135
Certain hazardous vehicles failure to stop at railroad crossing	8-1553	$195
Improper moving of heavy equipment at railroad crossing	8-1554	$75
Vehicle emerging from alley, private roadway, building or driveway	8-1555	$75

Improper passing of school bus; improper use of school bus signals	8-1556	$315
Improper passing of church or day-care bus; improper use of signals	8-1556a	$195
Impeding normal traffic by slow speed	8-1561	$45
Speeding on motor-driven cycle	8-1562	$75
Speeding in certain vehicles or on posted bridge	8-1563	$45
Improper stopping, standing or parking on roadway	8-1569	$45
Parking, standing or stopping in prohibited area	8-1571	$45
Improper parking	8-1572	$45
Unattended vehicle	8-1573	$45
Improper backing	8-1574	$45
Driving on sidewalk	8-1575	$45
Driving with view or driving mechanism obstructed	8-1576	$45
Unsafe opening of vehicle door	8-1577	$45
Riding in house trailer	8-1578	$45
Unlawful riding on vehicle	8-1578a	$75
Improper driving in defiles, canyons, or on grades	8-1579	$45
Coasting	8-1580	$45
Following fire apparatus too closely	8-1581	$75
Driving over fire hose	8-1582	$45
Putting glass, etc., on highway	8-1583	$105
Driving into intersection, crosswalk, or crossing without sufficient space on other side	8-1584	$45
Improper operation of snow-mobile on highway	8-1585	$45
Parental responsibility of child riding bicycle	8-1586	$45
Not riding on bicycle seat; too many persons on bicycle	8-1588	$45

Clinging to other vehicle	8-1589	$45
Improper riding of bicycle on roadway	8-1590	$45
Carrying articles on bicycle; one hand on handlebars	8-1591	$45
Improper bicycle lamps, brakes or reflectors	8-1592	$45
Improper operation of motorcycle; seats; passengers, bundles	8-1594	$45
Improper operation of motor cycle on laned roadway	8-1595	$75
Motorcycle clinging to other vehicle	8-1596	$45
Improper motorcycle handlebars or passenger equipment	8-1597	$75
Motorcycle helmet and eye-protection requirements	8-1598	$45
Unlawful operation of all-terrain vehicle	8-15,100	$75
Unlawful operation of low-speed vehicle	8-15,101	$75
Littering	8-15,102	$115
Disobeying school crossing guard	8-15,103	$75
Unlawful operation of micro utility truck	8-15,106	$75
Failure to remove vehicles in accidents	8-15,107	$75
Unlawful operation of golf cart	8-15,108	$75
Unlawful operation of work-site utility vehicle	8-15,109	$75
Unlawful display of license plate	8-15,110	$60
Unlawful text messaging	8-15,111	$60
Unlawful passing of a waste collection vehicle	8-15,112	$45
Unlawful passing of a utility or telecommunications vehicle	*section 5*	*$105*
Equipment offenses that are not misdemeanors	8-1701	$75

Driving without lights when needed	8-1703	$45
Defective headlamps	8-1705	$45
Defective tail lamps	8-1706	$45
Defective reflector	8-1707	$45
Improper stop lamp or turn signal	8-1708	$45
Improper lighting equipment on certain vehicles	8-1710	$45
Improper lamp color on certain vehicles	8-1711	$45
Improper mounting of reflectors and lamps on certain vehicles	8-1712	$45
Improper visibility of reflectors and lamps on certain vehicles	8-1713	$45
No lamp or flag on projecting load	8-1715	$75
Improper lamps on parked vehicle	8-1716	$45
Improper lights, lamps, reflectors and emblems on farm tractors or slow-moving vehicles	8-1717	$45
Improper lamps and equipment on implements of husbandry, road machinery or animal-drawn vehicles	8-1718	$45
Unlawful use of spot, fog, or auxiliary lamp	8-1719	$45
Improper lamps or lights on emergency vehicle	8-1720	$45
Improper stop or turn signal	8-1721	$45
Improper vehicular hazard warning lamp	8-1722	$45
Unauthorized additional lighting equipment	8-1723	$45
Improper multiple-beam lights	8-1724	$45
Failure to dim headlights	8-1725	$75
Improper single-beam headlights	8-1726	$45

Improper speed with alternate lighting	8-1727	$45
Improper number of driving lamps	8-1728	$45
Unauthorized lights and signals	8-1729	$45
Improper school bus lighting equipment and warning devices	8-1730	$45
Unauthorized lights and devices on church or day-care bus	8-1730a	$45
Improper lights on highway construction or maintenance vehicles	8-1731	$45
Defective brakes	8-1734	$45
Defective or improper use of horn or warning device	8-1738	$45
Defective muffler	8-1739	$45
Defective mirror	8-1740	$45
Defective wipers; obstructed windshield or windows	8-1741	$45
Improper tires	8-1742	$45
Improper flares or warning devices	8-1744	$45
Improper use of vehicular hazard warning lamps and devices	8-1745	$45
Improper air-conditioning equipment	8-1747	$45
Improper safety belt or shoulder harness	8-1749	$45
Improper wide-based single tires	8-1742b	$75
Improper compression release engine braking system	8-1761	$75
Defective motorcycle headlamp	8-1801	$45
Defective motorcycle tail lamp	8-1802	$45
Defective motorcycle reflector	8-1803	$45
Defective motorcycle stop lamps and turn signals	8-1804	$45

Defective multiple-beam lighting	8-1805	$45
Improper road-lighting equipment on motor-driven cycles	8-1806	$45
Defective motorcycle or motor-driven cycle brakes	8-1807	$45
Improper performance ability of brakes	8-1808	$45
Operating motorcycle with disapproved braking system	8-1809	$45
Defective horn, muffler, mirrors or tires	8-1810	$45
Unlawful statehouse parking	75-4510a	$30
Exceeding gross weight of vehicle or combination	8-1909	Pounds Overweight up to 1000.....$40 1001 to 2000.....3¢ per pound 2001 to 5000.....5¢ per pound 5001 to 7500.....7¢ per pound 7501 and over...10¢ per pound
Exceeding gross weight on any axle or tandem, triple or quad axles	8-1908	Pounds Overweight up to 1000.....$40 1001 to 2000.....3¢ per pound 2001 to 5000.....5¢ per pound 5001 to 7500.....7¢ per pound 7501 and over...10¢ per pound
Failure to obtain proper registration, clearance or to have current certification	66-1324	$287
Insufficient liability insurance for motor carriers	66-1,128 or 66-1314	$137
Failure to obtain interstate motor fuel tax authorization	79-34,122	$137
No authority as private or common carrier	66-1,111	$137

Violation of motor carrier safety rules and regulations, except for violations specified in K.S.A. 66-1,130(b)(2), and amendments thereto	66-1,129	$115

(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.

(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 1½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 2½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).

(g) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under K.S.A. 8-1560(a)(4), and amendments thereto.

(h) For a second violation of K.S.A. 8-1556, and amendments thereto, within five years after a prior conviction of K.S.A. 8-1556, and amendments thereto, such person, upon conviction, shall be fined $750 for the second violation. For a third and each succeeding violation of K.S.A.

8-1556, and amendments thereto, within five years after two prior convictions of K.S.A. 8-1556, and amendments thereto, such person, upon conviction, shall be fined $1,000 for the third and each succeeding violation.

Sec. 7. K.S.A. 2020 Supp. 8-2118 is hereby repealed.

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

Approved April 21, 2021.

CHAPTER 72

SENATE BILL No. 95

AN ACT concerning motor vehicles; relating to odometer requirements upon transfer of vehicle; exempting certain odometer certification requirements; relating to all-terrain vehicles and recreational off-highway vehicles; expanding the definitions thereof; amending K.S.A. 2020 Supp. 8-126, 8-135 and 8-1402a and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 8-126 is hereby amended to read as follows: 8-126. *As used in this act,* the following words and phrases ~~when used in this act shall~~ have the meanings respectively ascribed to them herein:

(a) "All-terrain vehicle" means any motorized nonhighway vehicle ~~50~~ *55* inches or less in width *measured from the outside of one tire rim to the outside of the other tire rim*, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires.

(b) "Autocycle" means a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

(c) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(d) "Contractor" means a person, partnership, corporation, local government, county government, county treasurer or other state agency that has contracted with the department to provide services associated with vehicle functions.

(e) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(f) "Division" means the division of vehicles of the department of revenue.

(g) "Electric-assisted scooter" means every self-propelled vehicle that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding.

(h) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(i) "Electric vehicle" means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electrical energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

(1) Residential electric service;

(2) an electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, ~~EVSE (~~electric vehicle supply equipment *(EVSE)* or a public charging station.

(j) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2020 Supp. 8-135d, and amendments thereto.

(k) "Electronic notice of security interest" means the division's online internet program that enables a dealer or secured party to submit a notice of security interest as defined in this section, and to cancel the notice or release the security interest using the program. This program is also known as the Kansas elien or KSelien.

(l) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(m) "Farm trailer" means every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle.

(n) "Foreign vehicle" means every motor vehicle, trailer, or semitrailer that shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and has not been registered in this state.

(o) "Golf cart" means a motor vehicle that ~~has~~ *does* not ~~less~~ *have fewer* than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

(p) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" ~~shall~~ *does* not ~~be deemed to~~ include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(q) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. ~~Such term shall include~~ *"Implement of husbandry" includes*, but *is* not ~~be~~ limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung; *and*

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

(r) "Lien" means a security interest as defined in this section.

(s) "Lightweight roadable vehicle" means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

(t) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(u) "Micro utility truck" means any motor vehicle that is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle or recreational off-highway vehicle.

(v) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, that is self-propelled.

(w) "Motorcycle" means every motor vehicle, including autocycles, designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as defined in this section.

(x) "Motorized bicycle" means every device having two tandem wheels or three wheels, that may be propelled by either human power or helper motor, or by both, and has:

(1) A motor ~~which~~ *that* produces not more than 3.5 brake horsepower;

(2) a cylinder capacity of not more than 130 cubic centimeters;

(3) an automatic transmission; and

(4) the capability of a maximum design speed of no more than 30 miles per hour.

(y) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of 15 miles per hour.

(z) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles ~~and~~ who holds a dealer's contract therefor from a manufacturer or distributor and ~~who~~ has an established place of business in this state.

(aa) "Nonresident" means every person who is not a resident of this state.

(bb) "Notice of security interest" means a notification to the division from a dealer or secured party of a purchase money security interest as

provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, upon a vehicle that has been sold and delivered to the purchaser describing the vehicle and showing the name, address and acknowledgment of the secured party as well as the name and address of the debtor or debtors and other information the division requires.

(cc) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(dd) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(ee) "Passenger vehicle" means every motor vehicle, as defined in this section, that is designed primarily to carry 10 or fewer passengers, and is not used as a truck.

(ff) "Person" means every natural person, firm, partnership, association or corporation.

(gg) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(hh) "Recreational off-highway vehicle" means any motor vehicle ~~more than 50 but~~ not greater than ~~64~~ *75* inches in width *measured from the outside of one tire rim to the outside of the other tire rim*, having a dry weight of ~~2,000~~ *3,500* pounds or less, traveling on four or more nonhighway tires.

(ii) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(jj) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(kk) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(ll) "Specially constructed vehicle" means any vehicle that shall not have been originally constructed under a distinctive name, make, model or type, or that, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(mm) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(nn) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(oo) "Truck" means a motor vehicle that is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(pp) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(qq) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers or vehicles.

(rr) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(ss) "Vehicle functions" means services relating to the application, processing, auditing or distribution of original or renewal vehicle registrations, certificates of title, driver's licenses and division-issued identification cards associated with services and functions set out in articles 1, 2 and 13 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto. "Vehicle functions" may also include personal property taxation duties set out in article 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and other vehicle-related events described in article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

(tt) "Work-site utility vehicle" means any motor vehicle that is not less than 48 inches in width, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more nonhighway tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck or recreational off-highway vehicle.

Sec. 2. *On and after January 1, 2022,* K.S.A. 2020 Supp. 8-135 is hereby amended to read as follows: 8-135. (a) Upon the transfer of owner-

ship 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 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. 2020 Supp. 8-135d, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 2020 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) *(A)* 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~~ *those* 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~~ *that are exempt from odometer certification requirements pursuant to federal law shall be exempt from such requirement*. 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.

(B) 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.

(C) 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 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. 2020 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. 2020 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 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. 2020 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 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 state-

ment 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 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 K.S.A. 8-116a(a), and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under 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 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. 3. K.S.A. 2020 Supp. 8-1402a is hereby amended to read as follows: 8-1402a. "All-terrain vehicle" means any motorized nonhighway vehicle ~~50~~ 55 inches or less in width *measured from the outside of one tire rim to the outside of the other tire rim*, having a dry weight of 1,500 pounds or less and traveling on three or more nonhighway tires.

Sec. 4. K.S.A. 2020 Supp. 8-126 and 8-1402a are hereby repealed.

Sec. 5. On and after January 1, 2022, K.S.A. 2020 Supp. 8-135 is hereby repealed.

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

Approved April 21, 2021.

CHAPTER 73

SENATE BILL No. 36

AN ACT concerning motor vehicles; relating to salvage vehicles; requiring the Kansas highway patrol to make multiple vehicle checks within a set time period upon application by a salvage vehicle pool; allowing salvage vehicle pools and salvage vehicle dealers to apply to the division of vehicles for ownership documents; providing application and notice requirements therefor; relating to abandoned and disabled vehicles; prohibiting the towing of vehicles outside the state of Kansas without prior consent; requiring an interstate search of registered owners and lienholders prior to sale of nonrepairable vehicles and vehicles less than 15 years old and publication in the newspaper seven days prior to sale of vehicles and property at auction; amending K.S.A. 8-1101 and K.S.A. 2020 Supp. 8-116a, 8-198, 8-1103 and 8-1104 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 8-116a is hereby amended to read as follows: 8-116a. (a) Except as provided in K.S.A. 8-170, and amendments thereto, when an application is made for a vehicle ~~which~~ *that* has been assembled, reconstructed, reconstituted or restored from one or more vehicles, or the proper identification number of a vehicle is in doubt, the procedure in this section shall be followed. The owner of the vehicle shall request the Kansas highway patrol to check the vehicle and the highway patrol shall within a reasonable period of time perform such vehicle check. At the time of such check the owner shall supply the highway patrol with information concerning the history of the various parts of the vehicle. Such information shall be supplied by affidavit of the owner, if so requested by the highway patrol. If the highway patrol is satisfied that the vehicle contains no stolen parts and complies with K.S.A. 8-116, and amendments thereto, the highway patrol shall determine the make, model and year of the vehicle, and shall assign an existing or new identification number to the vehicle and direct the places and manner in which the identification number is to be located and affixed or implanted. ~~A charge of $15 per hour or part thereof, with a minimum charge of $15, and on and after July 1, 2012, a~~ charge of $20 per hour or part thereof, with a minimum charge of $20, shall be made to the owner of a vehicle requesting check under this subsection, and such charge shall be paid prior to the check under this section. When a check has been made under subsection (b), not more than 60 days prior to a check of the same vehicle identification number, requested by the owner of the vehicle to obtain a regular certificate of title in lieu of a nonhighway certificate of title or obtain a rebuilt salvage title in lieu of a salvage title, no charge shall be made for such second check.

(b) Any person making application for any original Kansas title for a used vehicle ~~which~~ *that*, at the time of making application, is titled in another jurisdiction, as a condition precedent to obtaining any Kansas title, shall have such vehicle checked by the Kansas highway patrol for verifi-

cation that the vehicle identification number shown on the foreign title is genuine and agrees with the identification number on the vehicle. Checks under this section may include inspection for possible violation of K.S.A. 2020 Supp. 21-5835, and amendments thereto, or other evidence of possible fraud. The verification shall be made upon forms prescribed by the division of vehicles which shall contain such information as the secretary of revenue shall require by rules and regulations. ~~A charge of $15 per hour or part thereof, with a minimum charge of $15, and on and after July 1, 2012, a~~ charge of $20 per hour or part thereof, with a minimum charge of $20, shall be made for checks under this subsection. When a vehicle is registered in another state, but is financed by a Kansas financial institution and is repossessed in another state and such vehicle will not be returned to Kansas, the check required by this subsection shall not be required to obtain a valid Kansas title or registration.

(c) As used in this act, "identification number" or "vehicle identification number" means an identifying number, serial number, engine number, transmission number or other distinguishing number or mark, placed on a vehicle, engine, transmission or other essential part by its manufacturer or by authority of the division of vehicles or the Kansas highway patrol or in accordance with the laws of another state or country.

(d) The checks made under subsection (b) may be made by:

(1) A designee of the superintendent of the Kansas highway patrol; or

(2) an employee of a new vehicle dealer, as defined in ~~subsection (b) of~~ K.S.A. 8-2401*(b)*, and amendments thereto, for the purposes provided for in subsection (f). For checks made by a designee or new vehicle dealer, 10% of each charge shall be remitted to the Kansas highway patrol and the balance of such charges shall be retained by such designee or new vehicle dealer. If the designee is a city or county law enforcement agency, then the balance shall be retained by the law enforcement agency that conducted the inspection and shall be deposited into an account to be used for law enforcement purposes and shall not be used to supplant the law enforcement agency's budget. When a check is made under either subsection (a) or (b) by personnel of the Kansas highway patrol, the entire amount of the charge therefor shall be paid to the highway patrol.

(e) There is hereby created the vehicle identification number fee fund. The Kansas highway patrol shall remit all moneys received by the Kansas highway patrol from fees collected under subsection (d) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle identification number fee fund. All expenditures from the vehicle identification number fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and

reports issued pursuant to vouchers approved by the superintendent of the Kansas highway patrol or by a person or persons designated by the superintendent.

(f) An employee of a new vehicle dealer, who has received initial training and certification from the highway patrol~~,~~ and has met continuing certification requirements~~, in accordance with rules and regulations~~ adopted by the superintendent of the highway patrol, may provide the checks under subsection (b)~~, in accordance with rules and regulations adopted by the superintendent of the highway patrol,~~ on motor vehicles that a new vehicle dealer purchases through a manufacturer's sponsored auction or on motor vehicles repurchased or reacquired by a manufacturer, distributor or financing subsidiary of such manufacturer and which are purchased by the new vehicle dealer. At any time, after a hearing in accordance with the provisions of the Kansas administrative procedure act, the superintendent of the highway patrol may revoke, suspend, decline to renew or decline to issue certification for failure to comply with the provisions of this subsection, ~~including~~ *or* any *applicable* rules and regulations. *The superintendent of the highway patrol may promulgate rules and regulations to administer the provisions of this subsection.*

(g) *An employee of a salvage vehicle pool, as defined by K.S.A. 8-2401, and amendments thereto, who submits an application to the Kansas highway patrol pursuant to this section for six or more vehicles shall have such vehicles checked by the Kansas highway patrol within five business days of the date the application was submitted, if the salvage vehicle pool submitting the application sells at least 2,000 vehicles combined per year from the salvage vehicle pool's licensed locations in Kansas as reported to the Kansas department of revenue. The salvage vehicle pool shall provide the Kansas highway patrol with the address of the salvage vehicle pool facility and the approximate location within the facility of the vehicles to be checked and shall clearly mark the vehicles that are to be checked. The salvage vehicle pool shall provide enclosed office space for use by the Kansas highway patrol during such checks of multiple vehicles. The employees of the salvage vehicle pool shall not be required to move the vehicles within the facility for purposes of the checks. In the event that the Kansas highway patrol is unable to complete the checks required by this subsection within five business days, the Kansas highway patrol shall notify the salvage vehicle pool of the reasons for such delay and the date when such vehicle checks will begin, except that the date shall be not later than 10 business days from the date the application for such checks was submitted.*

(h) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section.

Sec. 2. K.S.A. 2020 Supp. 8-198 is hereby amended to read as follows: 8-198. (a) A nonhighway or salvage vehicle shall not be required to be registered in this state, as provided in K.S.A. 8-135, and amendments thereto, but nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A. 8-142, and amendments thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a vehicle required to be registered in this state.

(b) Upon the sale or transfer of any nonhighway vehicle or salvage vehicle, the purchaser thereof shall obtain a nonhighway certificate of title or salvage title, whichever is applicable, in the following manner:

(1) If the transferor is a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for such vehicle under this section or under the provisions of K.S.A. 8-135, and amendments thereto, such transferor shall make application for and assign a nonhighway certificate of title or a salvage title, whichever is applicable, to the purchaser of such nonhighway vehicle or salvage vehicle in the same manner and under the same conditions prescribed by K.S.A. 8-135, and amendments thereto, for the application for and assignment of a certificate of title thereunder. Upon the assignment thereof, the purchaser shall make application for a new nonhighway certificate of title or salvage title, as provided in subsection (c) or (d).

(2) Except as provided in K.S.A. 8-199(b), and amendments thereto, if a certificate of title has been issued for any such vehicle under the provisions of K.S.A. 8-135, and amendments thereto, the owner of such nonhighway vehicle or salvage vehicle may surrender such certificate of title to the division of vehicles and make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, or the owner may obtain from the county treasurer's office a form prescribed by the division of vehicles and, upon proper execution thereof, may assign the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached to the purchaser of the nonhighway vehicle or salvage vehicle. Upon receipt of the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached, the purchaser shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(3) If the transferor is not a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for the vehicle under this section or a certificate of title was not required under K.S.A. 8-135, and amendments thereto, the transferor shall make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, as provided in this section, except that in addition thereto, the division shall require a bill of sale or such transferor's

affidavit, with at least one other corroborating affidavit, that such transferor is the owner of such nonhighway vehicle or salvage vehicle. If the division is satisfied that the transferor is the owner, the division shall issue a nonhighway certificate of title or salvage title, whichever is applicable, for such vehicle, and the transferor shall assign the same to the purchaser, who shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(c) Every purchaser of a nonhighway vehicle, whether assigned a nonhighway certificate of title or a regular certificate of title with the form specified in subsection (b)(2) attached, shall make application to the county treasurer of the county ~~in which~~ *where* such person resides for a new nonhighway certificate of title in the same manner and under the same conditions as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under K.S.A. 8-135(c)(1), and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for a nonhighway certificate of title is made is a nonhighway vehicle and other provisions the director deems necessary. Each application for a nonhighway certificate of title shall be accompanied by a fee of $10, and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of $2.

(d) (1) Except as otherwise provided by this section, the owner of a vehicle that meets the definition of a salvage vehicle shall apply for a salvage title before the ownership of the motor vehicle or travel trailer is transferred. In no event shall such application be made more than 60 days after the vehicle is determined to be a salvage vehicle.

(2) Every insurance company~~, which~~ *that,* pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a salvage vehicle, shall apply for a salvage title within 60 days after the title is assigned and delivered by the owner to the insurance company, with all liens released. In the event that an insurance company is unable to obtain voluntary assignment of the title after 30 days from the date the vehicle owner enters into an oral or written damage settlement agreement where the owner agrees to transfer the title, the insurance company may submit an application on a form prescribed by the division for a salvage title. The form shall be accompanied by an affidavit from the insurance company stating that: (A) The insurance company is unable to obtain a transfer of the title from the owner following an oral or written acceptance of an offer of damage settlement; (B) there is evidence of the damage settlement; (C) that there are no ex-

isting liens on the vehicle or all liens on the vehicle have been released; (D) the insurance company has physical possession of the vehicle; and (E) the insurance company has provided the owner, at the owner's last known address, 30 days' prior notice of such intent to transfer and the owner has not delivered a written objection to the insurance company.

(3) Every insurance company ~~which~~ *that* makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a salvage vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply for a salvage title for the motor vehicle or travel trailer, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply for a salvage title within 60 days after being notified by the insurance company.

(4) The lessee of any vehicle ~~which~~ *that* incurs damage requiring the vehicle to be designated a salvage vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a salvage vehicle.

(5) The lessor of any motor vehicle or travel trailer ~~which~~ *that* has incurred damage requiring the vehicle to be titled as a salvage vehicle, shall apply for a salvage title within 60 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle or travel trailer that meets the definition of a salvage vehicle, for which a salvage title has not been issued, shall apply for the required document prior to any further transfer of such vehicle, but in no event, more than 60 days after ownership is acquired.

(7) Every purchaser of a salvage vehicle, whether assigned a salvage title or a regular certificate of title with the form specified in subsection (b)(2) attached, shall make application to the county treasurer of the county ~~in which~~ *where* such person resides for a new salvage title, in the same manner and under the same condition as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under K.S.A. 8-135(c)(1), and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for salvage title is made is a salvage vehicle, and other provisions the director deems necessary. Each application for a salvage title shall be accompanied by a fee of $10 and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of $2.

(8) Failure to apply for a salvage title as provided by this subsection shall be a class C nonperson misdemeanor.

(e) A nonhighway certificate of title or salvage title shall be in form and color as prescribed by the director of vehicles. A nonhighway certificate of title or salvage title shall indicate clearly and distinctly on its face that it is issued for a nonhighway vehicle or salvage vehicle, whichever is applicable. A nonhighway certificate of title or salvage title shall contain substantially the same information as required on a certificate of title issued under K.S.A. 8-135, and amendments thereto, and other information the director deems necessary.

(f) (1) A nonhighway certificate of title or salvage title may be transferred in the same manner and under the same conditions as prescribed by K.S.A. 8-135, and amendments thereto, for the transfer of a certificate of title, except as otherwise provided in this section. A nonhighway certificate of title or salvage title may be assigned and transferred only while the vehicle remains a nonhighway vehicle or salvage vehicle.

(2) Upon transfer or sale of a nonhighway vehicle in a condition ~~which~~ *that* will allow the registration of such vehicle, the owner shall assign the nonhighway certificate of title to the purchaser, and the purchaser shall obtain a certificate of title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No regular certificate of title shall be issued for a vehicle for which there has been issued a nonhighway certificate of title until there has been compliance with K.S.A. 8-116a, and amendments thereto.

(3) (A) Upon transfer or sale of a salvage vehicle ~~which~~ *that* has been rebuilt or restored or is otherwise in a condition ~~which~~ *that* will allow the registration of such vehicle, the owner shall assign the salvage title to the purchaser, and the purchaser shall obtain a rebuilt salvage title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No rebuilt salvage title shall be issued for a vehicle for which there has been issued a salvage title until there has been compliance with K.S.A. 8-116a, and amendments thereto, and the notice required in subsection (f)(3)(B) has been attached to such vehicle.

(B) As part of the inspection for a rebuilt salvage title conducted under K.S.A. 8-116a, and amendments thereto, the Kansas highway patrol shall attach a notice affixed to the left door frame of the rebuilt salvage vehicle indicating the vehicle identification number of such vehicle and that such vehicle is a rebuilt salvage vehicle. In addition to any fee allowed under K.S.A. 8-116a, and amendments thereto, a fee of $5 shall be collected from the owner of such vehicle requesting the inspection for the notice required under this paragraph. All moneys received under this paragraph shall be remitted in accordance with K.S.A. 8-116a(e), and amendments thereto.

(C) Failure to apply for a rebuilt salvage title as provided by this paragraph shall be a class C nonperson misdemeanor.

(g) The owner of a salvage vehicle ~~which~~ *that* has been issued a salvage title and has been assembled, reconstructed, reconstituted or restored or otherwise placed in an operable condition may make application to the county treasurer for a permit to operate such vehicle on the highways of this state over the most direct route from the place such salvage vehicle is located to a specified location named on the permit and to return to the original location. No such permit shall be issued for any vehicle unless the owner has motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A. 40-3104, and amendments thereto. Such permit shall be on a form furnished by the director of vehicles and shall state the date the vehicle is to be taken to the other location, the name of the insurer, as defined in K.S.A. 40-3103, and amendments thereto, and the policy number or a statement that the vehicle is included in a self-insurance plan approved by the commissioner of insurance, a statement attesting to the correctness of the information concerning financial security, the vehicle identification number and a description of the vehicle. Such permit shall be signed by the owner of the vehicle. The permit shall be carried in the vehicle for which it is issued and shall be displayed so that it is visible from the rear of the vehicle. The fee for such permit shall be $1 ~~which~~ *and* shall be retained by the county treasurer~~, who shall annually forward 25% of all such fees collected to the division of vehicles to reimburse the division for administrative expenses, and shall deposit the remainder in a special fund for expenses of issuing such permits~~.

(h) A nonhighway vehicle or salvage vehicle for which a nonhighway certificate of title or salvage title has been issued pursuant to this section shall not be deemed a motor vehicle for the purposes of K.S.A. 40-3101 ~~to~~ *through* 40-3121, ~~inclusive,~~ and amendments thereto, except when such vehicle is being operated pursuant to subsection (g). Any person who knowingly makes a false statement concerning financial security in obtaining a permit pursuant to subsection (g), or who fails to obtain a permit when required by law to do so is guilty of a class C misdemeanor.

(i) Any person who, on July 1, 1996, is the owner of an all-terrain vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such all-terrain vehicle, unless the person transfers an interest in such all-terrain vehicle.

(j) Any person who, on July 1, 2006, is the owner of a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such work-site utility vehicle, unless the person transfers an interest in such work-site utility vehicle.

(k) (1) A salvage vehicle pool, or a salvage vehicle dealer, as both are defined and licensed to operate in this state pursuant to K.S.A. 8-2401

et seq., and amendments thereto, may apply for an ownership document with the division of vehicles without forwarding the certificate of title to the division for a vehicle that is the subject of an insurance claim when:

(A) At the request of an insurance company, the salvage vehicle pool or salvage vehicle dealer obtains possession of the vehicle;

(B) the insurance claim for the vehicle has been closed without payment or denied by the insurance company; and

(C) the vehicle has remained unclaimed at the salvage vehicle pool's or salvage vehicle dealer's facility for more than 30 days.

(2) An application made pursuant to this subsection shall provide sufficient evidence that at least two written notices were delivered by certified mail to the address provided by the division of vehicles' ownership verification, or through another courier service that provides proof of delivery, to the owner of the vehicle and any lienholder of the vehicle identified in the division of vehicles' records requesting that the vehicle be removed from the salvage vehicle pool's or salvage vehicle dealer's facility. A salvage vehicle dealer shall also provide sufficient evidence to the division of the request by the insurance company to obtain possession of the vehicle. Such written notice shall specify that the owner of the vehicle and any lienholder of the vehicle identified in the division of vehicles' records has at least 30 days from the receipt of the notice to remove the vehicle. If the salvage vehicle pool or salvage vehicle dealer does not receive proof of delivery for the notices, the salvage vehicle pool or salvage vehicle dealer shall cause notice of the application for an ownership document to be published in a newspaper of general circulation in the county where the vehicle is located.

(3) If the most recent ownership document for the vehicle was not issued by this state, the application shall also include evidence of an inspection of the vehicle completed pursuant to K.S.A. 8-116a, and amendments thereto. The application shall also indicate whether a salvage title or a nonrepairable vehicle certificate shall be issued for the vehicle.

(4) Upon receipt of the application and all information required by this subsection, the division shall issue to the salvage vehicle pool or salvage vehicle dealer a salvage title or a nonrepairable vehicle certificate free and clear of all liens, security interests and encumbrances.

Sec. 3. K.S.A. 8-1101 is hereby amended to read as follows: 8-1101. As used in this act:

(a) "Public agency" means and includes the department of transportation, the Kansas turnpike authority, a county, city and township.

(b) "Motor vehicle" means every vehicle~~,~~ or tractor trailer combination~~, which~~ *that* is self-propelled by which any person or property is or may be transported or drawn upon a highway except vehicles used exclusively upon stationary rails or tracks.

(c) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular travel.

(d) "Law enforcement officer" means and includes the Kansas highway patrol, police~~, sheriff,~~ *and sheriffs* who are vested with the power and authority of peace, police~~,~~ and law enforcement, or those authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(e) "Person" means the same as defined in K.S.A. 8-1447, and amendments thereto.

Sec. 4. K.S.A. 2020 Supp. 8-1103 is hereby amended to read as follows: 8-1103. (a) *(1)* Whenever any person providing wrecker or towing service, as defined by ~~law~~ *K.S.A. 66-1329, and amendments thereto*, while lawfully in possession of a vehicle, at the direction of a law enforcement officer or the owner or as provided by a city ordinance or county resolution, renders any service to the owner thereof by the recovery, transportation, protection, storage or safekeeping thereof, a first and prior lien on the vehicle is hereby created in favor of such person rendering such service and the lien shall amount to the full amount and value of the service rendered. The lien may be foreclosed in the manner provided in this act.

(2) If the name of the owner of the vehicle is known to the person in possession of such vehicle, then within 15 days, notice shall be given to the owner that the vehicle is being held subject to satisfaction of the lien. Any vehicle remaining in the possession of a person providing wrecker or towing service for a period of 30 days after such wrecker or towing service was provided may be sold to pay the reasonable or agreed charges for such recovery, transportation, protection, storage or safekeeping of such vehicle and personal property therein, the costs of such sale, the costs of notice to the owner of the vehicle and publication after giving the notices required by this act, unless a court order has been issued to hold such vehicle for the purpose of a criminal investigation or for use as evidence at a trial.

(3) If a court orders any vehicle to be held for the purpose of a criminal investigation or for use as evidence at a trial, then such order shall be in writing, and the court shall assess as costs the reasonable or agreed charges for the protection, storage or safekeeping accrued while the vehicle was held pursuant to such written order.

(4) Any personal property within the vehicle need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid, or satisfactory arrangements for payment have been made, except as provided under subsection (c) or for personal medical supplies which shall be released to the owner thereof upon request. The person in possession of such vehicle and per-

sonal property shall be responsible only for the reasonable care of such property. Any personal property within the vehicle not returned to the owner shall be sold at the auction authorized by this act.

(b) At the time of providing wrecker or towing service, any person providing such wrecker or towing service shall give written notice to the driver, if available, of the vehicle being towed that a fee will be charged for storage of such vehicle. Failure to give such written notice shall invalidate any lien established for such storage fee.

(c) A city ordinance or county resolution authorizing the towing of vehicles from private property shall specify in such ordinance or resolution:

(1) The maximum rate such wrecker or towing service may charge for such wrecker or towing service and storage fees;

(2) that an owner of a vehicle towed shall have access to personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be released to the owner; and

(3) that the wrecker or towing service shall report the location of such vehicle to local law enforcement within two hours of such tow.

(d) A person providing towing services shall not tow a vehicle to a location outside of Kansas without the consent of either:

(1) The driver or owner of the motor vehicle;

(2) a motor club of which the driver or owner of the motor vehicle is a member; or

(3) the insurance company processing a claim with respect to the vehicle or an agent of such insurance company.

Sec. 5. K.S.A. 2020 Supp. 8-1104 is hereby amended to read as follows: 8-1104. *(a)* Before any such vehicle and personal property is sold, the person intending to sell such vehicle shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles not more than 30 days after such person took possession of the vehicle. *Every person intending to sell any vehicle pursuant to this section that cannot be verified by the division of vehicles shall obtain an interstate search of registered owners and lienholders unless:*

(1) The vehicle is 15 years of age or older; or

(2) the vehicle is determined by the division of vehicles to be a nonrepairable vehicle pursuant to K.S.A. 8-135c, and amendments thereto.

(b) Notice of sale, as provided in this act, shall be mailed by certified mail to any such registered owner and any such lienholders within 10 days after receipt of verification of the last owner and any lienholders, if any. The person intending to sell such vehicle and personal property pursuant to this act shall cause a notice of the time and place of sale, containing a description of the vehicle and personal property, to be published in a newspaper published in the county or city where such sale is advertised

to take place, and if there is no newspaper published in such county, then the notice shall be published in some newspaper of general circulation in such county. Notices given under this section shall state that if the amount due, together with storage, publication, notice and sale costs, is not paid within 15 days from the date of mailing, the vehicle and personal property will be sold at public auction. *Notice of an auction shall be published at least seven days prior to the scheduled auction.*

Sec. 6. K.S.A. 8-1101 and K.S.A. 2020 Supp. 8-116a, 8-198, 8-1103 and 8-1104 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 21, 2021.

CHAPTER 74

SENATE BILL No. 38

AN ACT concerning agriculture; relating to environmental remediation; the Kansas department of agriculture division of conservation; implementing the provisions of 2011 executive reorganization order No. 40; establishing the Kansas pesticide waste disposal program and the Kansas pesticide waste disposal fund; permitting annual transfers from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund; amending K.S.A. 2-1916, 2-3702, 49-605, 49-611, 49-613, 49-618, 49-620, 49-623, 82a-1602, 82a-1603, 82a-1607 and 82a-1702 and K.S.A. 2020 Supp. 2-1903, 2-1904, 2-1907, 2-1907c, 2-1908, 2-1915, 2-1930, 2-1931, 2-1933, 2-3708, 49-603, 49-606 and 49-621 and repealing the existing sections.

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

New Section 1. (a) There is hereby established a Kansas pesticide waste disposal program to be administered by the secretary of agriculture for the collection and disposal of pesticide waste in the state.

(b) The program shall be funded in accordance with section 2, and amendments thereto.

New Sec. 2. (a) There is hereby created in the state treasury the Kansas pesticide waste disposal fund. All moneys credited to the Kansas pesticide waste disposal fund shall be used by the secretary of agriculture for the Kansas pesticide waste disposal program established by section 1, and amendments thereto. All expenditures from the Kansas pesticide waste disposal 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.

(b) The Kansas agricultural remediation board may approve an annual transfer of moneys from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund in an amount that shall not exceed $50,000 per calendar year. Upon such approval, the director of accounts and reports shall transfer such approved moneys from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund.

(c) On or before January 1 of each year, the secretary of agriculture shall submit to the Kansas agricultural remediation board a report concerning the annual expenditures made from the Kansas pesticide waste disposal program.

(d) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas pesticide waste disposal fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas pesticide waste disposal fund for the preceding month; and

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

Sec. 3. K.S.A. 2020 Supp. 2-1903 is hereby amended to read as follows: 2-1903. As used in this act:

(1) "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) "Commission" ~~or "state conservation commission"~~ means the conservation program policy board created in K.S.A. 2-1904, and amendments thereto*, including the state conservation commission continued in existence by K.S.A. 74-5,128, and amendments thereto*.

(4) "State" means the state of Kansas.

(5) "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporation or otherwise, of the government of this state.

(6) "United States" or "agencies of the United States" includes the United States of America, the ~~soil~~ *natural resources* conservation service of the United States department of agriculture and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(7) "Government" or "governmental" includes the government of this state, the government of the United States and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(8) "Division" ~~or "division of conservation"~~ means the ~~agency~~ *division of conservation* established *within the Kansas department of agriculture* in K.S.A. 74-5,126, and amendments thereto.

(9) "Director" means the executive director of the division.

(10) "Invasive plant species" means a species of plant not native to Kansas whose introduction, presence or spread does or is likely to cause economic harm, environmental harm or harm to human health.

(11) "Secretary" means the secretary of the Kansas department of agriculture.

Sec. 4. K.S.A. 2020 Supp. 2-1904 is hereby amended to read as follows: 2-1904. (a) There is hereby established, to serve as a conservation program policy board of the state and to perform the functions conferred upon it in this act, the state conservation commission. The state conservation commission shall succeed to all the powers, duties and property of the state soil conservation committee. The commission shall consist of nine members as follows:

(1) The ~~director of the cooperative extension service and the director of the state agricultural experiment station~~ *dean of the Kansas state university college of agriculture* located at Manhattan, Kansas, ~~or such persons' designees shall serve, ex officio, as~~ *shall appoint two designees*

to serve on the commission as members ~~of the commission~~. *One designee shall represent an agricultural experiment station and one shall represent the cooperative extension service.*

(2) The ~~commission~~ *secretary* shall request the secretary of agriculture of *the* United States of America to appoint one person, and the secretary ~~of the Kansas department of agriculture to~~ *shall* appoint one person, each of whom shall be residents of the state of Kansas to serve as members of the commission. These members shall hold office for four years and until a successor is appointed and qualifies, with terms commencing on the second Monday in January beginning in 1973.

(3) Five members of the ~~state~~ commission shall be elected by the conservation district supervisors at a time and place to be designated by the ~~state conservation~~ commission. The method of electing such members to be conducted as follows: The state is to be divided into five separate areas. Area No. I to include the following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lincoln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, Kingman, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan, Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson, Morris, Osage, Franklin and Miami. Area No. V to include: Marion, Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua, Montgomery, Labette and Cherokee. Areas II and IV ~~will~~ *shall* elect *members* in ~~even number~~ *even-numbered* years and Areas I, III and V shall elect *members* in ~~odd number~~ *odd-numbered* years for ~~two year~~ *two-year* terms. The elected commission members from Areas I, III and V shall take office on January 1~~,~~ of the ~~even number~~ *even-numbered* years. The remaining two elected members of the state commission from Areas II and IV shall take office on January 1~~,~~ of the ~~odd number~~ *odd-numbered* years. The method of election is to be by area caucus of the district supervisors of each of the five separate areas of Kansas. The commission shall give each district notice of the time and place of such annual election meeting by letter if a member is to be elected to the commission from that area that year. The selection of a successor to fill an unexpired term shall be by appointment by the commission. The successor who is appointed to fill the unexpired term shall be a resident of the same area as that of the predecessor.

(b) The commission shall keep a record of its official actions~~,~~ *and* shall ~~adopt a seal which seal shall be judicially noticed, and may perform such acts, hold such public hearings and adopt~~ *review all* rules and regulations *proposed by the division that are* necessary for the execution of ~~its~~ *the division's* functions under this act.

(c) In addition to the powers and duties conferred in this section, the ~~state conservation~~ commission shall have the powers and duties not delegated to the ~~Kansas department of agriculture~~ division ~~of conservation~~ pursuant to K.S.A. 74-5,126, and amendments thereto.

(d) The commission shall designate its chairperson and, from time to time, may change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Members of the ~~state conservation~~ commission attending meetings of such commission or attending a subcommittee meeting thereof authorized by such commission shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The commission shall provide for keeping of a full and accurate record of all proceedings and of all resolutions, *rules and* regulations and orders issued or adopted.

(e) The ~~state conservation~~ commission together with the ~~Kansas department of agriculture~~ division ~~of conservation~~ shall make conservation program policy decisions *to be approved by the secretary*, including modification of current conservation programs, creation of new conservation programs and *annual* budget recommendations.

(f) The ~~Kansas department of agriculture~~ division ~~of conservation~~ in consultation with the ~~state conservation~~ commission shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

(2) to keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder and to facilitate an interchange of advice and experience between such districts and cooperation between them;

(3) to coordinate the programs of the several conservation districts organized hereunder;

(4) to secure the cooperation and assistance of the United States and any of its agencies and of agencies of this state, in the work of such districts and to contract with or to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of this act;

(5) to disseminate information throughout the state concerning the activities and programs of the conservation districts organized hereunder and to encourage the formation of such districts in areas where their organization is desirable;

(6) to cooperate with and give assistance to watershed districts and other special purpose districts in the state of Kansas for the purpose of cooperating with the United States through the secretary of agriculture in the furtherance of conservation pursuant to the provisions of the watershed protection and flood prevention act, as amended;

(7) to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop the water resources of the state and maintain and improve the quality of such water resources;

(8) to enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts;

(9) to facilitate arrangements under which conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of natural resources; and

(10) to take such actions as are necessary to restore, establish, enhance and protect natural resources with conservation easements for the purpose of compensatory mitigation required under section 404 of the federal clean water act, including:

(A) Accepting, purchasing or otherwise acquiring conservation easements, as defined in K.S.A. 58-3810, and amendments thereto, on behalf of watershed districts for the purpose of protecting compensatory mitigation sites;

(B) contracting with engineering consultants, surveyors and construction contractors for the purpose of restoration, establishment and enhancement of natural resources; and

(C) establishing fees for the acquisition and administration of conservation easements held on behalf of watershed districts, accepting such fees from state and local government agencies, and assuming responsibility to ensure the terms of the conservation easement are met, as approved by the department, for the length of term of the easement for which fees have been accepted.

(g) There is hereby established in the state treasury the compensatory mitigation fund~~, which shall~~ *to* be administered by the department of agriculture. All expenditures from the compensatory mitigation fund shall be for conservation. All expenditures from the compensatory mitigation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or the designee of the secretary. The secre-

tary of agriculture shall remit all moneys received by or for the secretary under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the compensatory mitigation fund.

(h) All costs associated with compensatory mitigation, including, but not limited to, the costs of any litigation or civil fines or penalties, shall be paid by the watershed district for which the ~~Kansas department of agriculture~~ division ~~of conservation~~ holds the conservation easement.

(i) (1) Except as provided in ~~subsection (i)~~ *paragraph* (2), the Kansas department of agriculture shall not expend moneys appropriated from the state general fund or from any special revenue fund or funds for the purpose of accepting, purchasing or otherwise acquiring conservation easements on behalf of watershed districts.

(2) The Kansas department of agriculture may expend moneys in the compensatory mitigation fund established by this section for the purpose of accepting, purchasing or otherwise acquiring conservation easements on behalf of watershed districts and for the administration of such conservation easements.

(j) The ~~Kansas department of agriculture~~ division ~~of conservation~~ shall not accept, purchase or otherwise acquire any conservation easement other than for the purposes of this section.

Sec. 5. K.S.A. 2020 Supp. 2-1907 is hereby amended to read as follows: 2-1907. The governing body of the district shall consist of five supervisors who are qualified electors residing within the district. The supervisors who are first elected shall serve for terms of one, two and three years according to the following plan: The two persons receiving the highest number of votes in the election shall hold office for three years; the two persons receiving the next highest number of votes shall hold such office for a term of two years*;* and the remaining supervisor shall hold office for a term of one year. In the event of a tie vote, such terms shall be decided by lot. Nothing in this section shall be construed as affecting the length of the term of supervisors holding office on January 1, 1995. Successors to such persons shall be elected for terms of three years. An annual meeting of all qualified electors of the district shall be held in the month of January or February. Notice of the time and place of such meeting shall be given by such supervisors by publishing a notice in the official county paper once each week for two consecutive weeks prior to the week in which such meeting is to be held. At such meeting the supervisors shall make full and due report of their activities and financial affairs since the last annual meeting and shall conduct an election by secret ballot of all of the qualified electors of the district there present for the election of supervisors whose terms have expired. Whenever a

vacancy occurs in the membership of the governing body the remaining supervisors of the district shall appoint a qualified elector of the district to fill the office for the unexpired term. The supervisors shall designate a chairperson and may from time to time change such designation. A supervisor shall hold office until a successor has been elected or appointed and has qualified. A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for services, but may be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties. The supervisors may employ a secretary, technical experts~~,~~ and such other officers, agents~~,~~ and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the county attorney of the county in which a major portion of the district lies, or the attorney general for such legal services as they may require. The supervisors may delegate to their chairperson, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the ~~Kansas department of agriculture~~ division ~~of conservation~~, upon request, copies of such rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts and receipts and disbursements. Any supervisor may be removed by the ~~state conservation~~ *secretary in consultation with the* commission upon notice and hearing in accordance with the provisions of the Kansas administrative procedure act~~,~~ for neglect of duty or malfeasance in office, but for no other reason. The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy ~~which~~ *that* may affect the property, water supply~~,~~ or other interests of such municipality or county.

Sec. 6. K.S.A. 2020 Supp. 2-1907c is hereby amended to read as follows: 2-1907c. On or before September 1 of each year, each conservation district shall submit to the ~~Kansas department of agriculture~~ division ~~of conservation~~ a certification of the amount of money to be furnished by the county commissioners for conservation district activities for the ensuing calendar year. Such amount shall be the same as authorized for such

purposes in each approved county budget. For the purpose of providing state financial assistance to conservation districts, the ~~Kansas department of agriculture~~ division ~~of conservation~~ in the regular budget request, as a line item for the forthcoming fiscal year, shall submit a special request for an amount equal to the sum of the allocations of each county to each conservation district, but in no event to exceed the sum of $25,000 per district. This $25,000 limitation shall be applicable for fiscal year 2008, and thereafter, subject to appropriations therefor. The ~~Kansas department of agriculture~~ division ~~of conservation~~, as soon as practicable after July 1 of the following year, shall disburse such moneys as may be appropriated by the state for this purpose to each conservation district to match funds allocated by the commissioners of each county. Distribution shall be prorated in proportion to county allocations in the event that appropriations are insufficient for complete matching of funds. Municipal accounting procedures shall be used in the distribution of and in the expenditure of all funds.

Sec. 7. K.S.A. 2020 Supp. 2-1908 is hereby amended to read as follows: 2-1908. A conservation district organized under the provisions of K.S.A. 2-1901 et seq., and amendments thereto, shall constitute a governmental subdivision of this state~~,~~ and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(a) To conduct surveys, investigations~~,~~ and research relating to the character of soil erosion, *soil and grassland health,* flood damage, *water quality* and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures. In order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies~~,~~ or with the United States or any of its agencies;

(b) to conduct demonstrational projects within the district on lands, owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods~~,~~ and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled; and to demonstrate by example, the means, methods~~,~~ and measures by which water and water resources may be conserved, developed, used and disposed of to alleviate ~~drouth~~ *drought*, to maintain and improve water quality and to reduce flooding and impaired drainage;

(c) to carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land~~,~~ and the measures listed in subsection C of K.S.A. 2-1902, and amendments thereto, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands;

(d) to cooperate~~,~~ or enter into agreements with, and within the limitations of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion-control flood prevention*, soil and grassland health initiatives, water quality* and water management operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

(e) to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise~~,~~ or otherwise, any property, real or personal, or rights or interest therein; to maintain, administer~~,~~ and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease~~,~~ or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act;

(f) to make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds~~,~~ and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources*, soil and grassland health, protection of water quality* and for the prevention and control of soil erosion;

(g) to develop comprehensive plans for the conservation of soil and water resources and for the control and prevention of soil erosion, flood damages, impaired drainage, the effects of ~~drouth~~ *drought* within the district and the maintenance and improvement of water quality~~, which~~ *with such* plans ~~shall specify~~ *specifying* in such detail as may be possible, the acts, procedures, performances~~,~~ and avoidances ~~which~~ *that* are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices~~,~~ and changes in use of land, and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(h) to take over, by purchase, lease, *gift* or ~~otherwise~~ *donation*, and to administer, any soil-conservation, erosion-control,~~ or~~ *soil and grassland health,* erosion-prevention, flood prevention*, water quality* or water man-

agement project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies *subject to the authority of the authorizing state or federal agency*; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention, flood prevention or water management project within its boundaries; to act for the district or as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, maintenance, or administration of any soil-conservation, erosion-control, ~~or~~ *soil and grassland health,* erosion-prevention, flood prevention, *water quality* or water management project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and from persons, firms, corporations or associations, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(i) to sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers;

(j) as a condition to the extending of any benefits under this act, to or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(k) no provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state;

(l) the supervisors of any district shall not contract debts or obligations in the name of the district beyond the current appropriation made available to the district by the ~~committee~~ *division* or federal grants or other financial sources;

(m) to accept and expend funds donated to the district for purposes of providing at least 20% cost-share for the purchase of an eligible water right from the holder of the water right under the provisions of K.S.A. 2-1915, and amendments thereto; and

(n) to control ~~and eradicate sericea lespedeza~~ *invasive species* within the district ~~in any county that the secretary of agriculture has designated as a sericea lespedeza disaster area~~.

Sec. 8. K.S.A. 2020 Supp. 2-1915 is hereby amended to read as follows: 2-1915. (a) *(1)* Appropriations may be made for grants out of funds in the treasury of this state for*:*

(A) Terraces, terrace outlets, check dams, dikes, ponds, ditches, critical area planting, grassed waterways, ~~tailwater recovery irrigation systems~~ *irrigation technology*, precision land forming, range seeding, *soil and grassland health,* detention and grade stabilization structures and other enduring water conservation *and water quality* practices installed on public lands and on privately owned lands*;* and~~,~~

(B) the control ~~and eradication~~ of ~~sericea lespedeza as provided in subsection (n) of K.S.A. 2-1908, and amendments thereto,~~ *invasive species* on public lands and on privately owned lands.

(2) Except as provided by the multipurpose small lakes program act *and other programs approved by the secretary*, any such grant shall not exceed 80% of the total cost of any such practice.

(b) A program for protection of riparian and wetland areas shall be developed by the ~~Kansas department of agriculture~~ division ~~of conservation~~ and implemented by the conservation districts. The conservation districts shall prepare district programs to address resource management concerns of water quality, erosion and sediment control and wildlife habitat as part of the conservation district long-range and annual work plans. Preparation and implementation of conservation district programs shall be accomplished with assistance from appropriate state and federal agencies involved in resource management.

(c) Subject to the provisions of K.S.A. 2-1919, and amendments thereto, any holder of a water right, as defined by ~~subsection (g) of~~ K.S.A. 82a-701(g), and amendments thereto, who is willing to voluntarily return all or a part of the water right to the state shall be eligible for a grant not to exceed 80% of the total cost of the purchase price for such water right. The ~~Kansas department of agriculture~~ division ~~of conservation~~ shall administer this cost-share program with funds appropriated by the legislature for such purpose. The chief engineer shall certify to the ~~Kansas department of agriculture~~ division ~~of conservation~~ that any water right for which application for cost-share is received under this section is eligible in accordance with the criteria established in K.S.A. 2-1919, and amendments thereto.

(d) (1) Subject to appropriation acts therefor, the ~~Kansas department of agriculture~~ division ~~of conservation~~ shall develop the Kansas water quality buffer initiative for the purpose of restoring riparian areas using best management practices. The ~~executive~~ director ~~of the Kansas department of agriculture division of conservation~~ shall ensure that the initiative is complementary to the federal conservation reserve program *and update any applicable standards from time to time as necessary for the continued success of the program*.

(2) There is hereby created in the state treasury the Kansas water quality buffer initiative fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~executive~~ director ~~of the Kansas department of agriculture division of conservation~~ or the ~~executive~~ director's designee. ~~Money~~ *Moneys* credited to the fund shall be used for the purpose of making grants to install water quality best management practices pursuant to the initiative.

(3) The county or district appraiser shall identify and map riparian buffers consisting of at least one contiguous acre per parcel of real property located in the appraiser's county. Notwithstanding any other provisions of law, riparian buffers shall be valued by the county or district appraiser as tame grass land, native grass land or waste land, as appropriate. As used in this ~~subsection (3)~~ *paragraph*, "riparian buffer" means an area of stream-side vegetation that: (A) Consists of tame or native grass and may include forbs and woody plants; (B) is located along a perennial or intermittent stream, including the stream bank and adjoining floodplain; and (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

(e) The ~~Kansas department of agriculture~~ division ~~of conservation~~, with the approval of the ~~state conservation commission~~ *secretary,* shall adopt rules and regulations to administer such grant and protection programs. *Prior to submission of any proposed rules and regulations of the division to the director of the budget, the secretary of administration and the attorney general in accordance with the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto:*

(1) The director shall submit such proposed rules and regulations to the commission; and

(2) the commission shall review and make recommendations to the director and the secretary regarding such proposed rules and regulations.

(f) Any district is authorized to make use of any assistance whatsoever given by the United States, or any agency thereof, or derived from any other source, for the planning and installation of such practices. The ~~Kansas department of agriculture~~ division ~~of conservation~~ may enter into agreements with other state and federal agencies to implement the Kansas water quality buffer initiative.

Sec. 9. K.S.A. 2-1916 is hereby amended to read as follows: 2-1916. At any time after five ~~(5)~~ years after the organization of a district under the provisions of this act, ~~ten percent~~ ~~(10%)~~ of the occupiers of land lying within the boundaries of such district may file a petition with the ~~state soil conservation committee~~ *division* praying that the operations of the district be terminated and the existence of the district discontinued. The ~~committee~~ *division* may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the con-

sideration thereof. Within ~~sixty (~~60~~)~~ days after such a petition has been received by the ~~committee it~~ *division, the division* shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the _____ (name of the soil conservation district to be here inserted)" and "against terminating the existence of the _____ (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an × mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted. The ~~committee~~ *division* shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the ~~committee~~ *division* shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the ~~committee~~ *division* shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination, the ~~committee~~ *division* shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion control operations within such district~~,~~ and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in K.S.A. 2-1902~~: *Provided, however*~~*, and amendments thereto, except* that the ~~committee~~ *division* shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the ~~state soil conservation committee~~ *division* of certification that the ~~committee~~ *division* has determined that the continued operation of the district is not administratively practicable and feasible,

pursuant to the provisions of this section, the supervisors shall ~~forthwith~~ *immediately* proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district~~,~~ and shall transmit with such application the certificate of the ~~state soil conservation committee~~ *division* setting forth the determination of the ~~committee~~ *division* that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in ~~his or her~~ *the secretary of state's* office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations ~~theretofore~~ adopted and in force within such districts shall be of no further force and effect. All contracts ~~theretofore entered into,~~ to which the district or supervisors are parties~~,~~ shall remain in force and effect for the period provided in such contracts. The ~~state soil conservation committee~~ *division* shall be substituted for the district or supervisors as party to such contracts. The ~~committee~~ *division* shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon~~,~~ and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of K.S.A. 2-1911, *prior to its repeal,* nor the pendency of any action instituted under the provisions of such section, and the committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions. The state soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act, more often than once in five ~~(5)~~ years.

Sec. 10. K.S.A. 2020 Supp. 2-1930 is hereby amended to read as follows: 2-1930. (a) As used in this section:

(1) "Division" means the ~~Kansas department of agriculture~~ division of conservation *established within the Kansas department of agriculture in K.S.A. 74-5,126, and amendments thereto*;

(2) "historic consumptive water use" means an amount of use of a water right as calculated pursuant to subsection (k); and

(3) "program" means the water right transition assistance program.

(b) There is hereby established the water right transition assistance program. The program shall be administered by the ~~Kansas department of agriculture~~ division ~~of conservation~~. The Kansas department of agriculture division of water resources and recognized local governing agencies, including groundwater management districts, shall cooperate in program implementation. The program shall be administered for the purpose of reducing historic consumptive water use in the target or high priority areas of the state by issuing water right transition grants based on competitive bids for privately held water rights.

(c) (1) The division may receive and expend funds from the federal or state government~~,~~ or *a* private source for the purpose of carrying out the provisions of this section. The division shall carry over unexpended funds from one fiscal year to the next.

(2) The maximum amount paid by the division shall not exceed a base rate per acre-foot of historic consumptive water use made available under the water right to be dismissed or permanently reduced. The ~~state conservation~~ *division, in consultation with the* commission, shall establish an annual base rate after considering recommendations from the chief engineer and the groundwater management districts regarding market conditions.

(d) The division may enter into water right transition assistance program contracts with landowners that will result in the permanent reduction of part or all of a landowner's historic consumptive water use by action of the chief engineer as provided for in subsection (f).

(e) All applications for permanent irrigation water right retirements shall be considered for funding. Permanent retirement of partial water rights shall only be approved by the Kansas department of agriculture division of water resources when the local groundwater management district has the metering and monitoring capabilities necessary to ensure compliance with the program.

(f) Applications for permanent water right retirement shall be prioritized for payment based on the following criteria:

(1) The applicant's bid price;

(2) the timing and extent of the impact of the application on aquifer restoration or stream recovery;

(3) the impact on local water management strategies designated by the board of each groundwater management district or by the chief engineer for each target area; and

(4) where rights with similar hydrologic impacts are considered, priority should be given to the senior right as determined under the Kansas water appropriation act.

(g) Water rights enrolled in the program for permanent retirement shall require the written consent of all landowners and authorized agents

to voluntarily request permanent reduction or permanent dismissal and forfeiture of priority of the enrolled water right. Upon enrollment of the water right into the program, the chief engineer of the Kansas department of agriculture division of water resources shall concurrently permanently reduce or permanently dismiss and terminate the water right in accordance with the terms of the contract.

(h) (1) The division shall make water right transition grants available only in areas that have been designated as:

(A) Target areas by the groundwater management districts and the chief engineer of the Kansas department of agriculture division of water resources; or

(B) target areas outside the groundwater management districts by the chief engineer of the Kansas department of agriculture division of water resources.

(2) Each target area shall be in a groundwater aquifer, aquifer subunit, surface water basin, subbasin or stream reach that the chief engineer has closed to further appropriations except for domestic use, temporary permits, term permits for five years or less and small-use exemptions for 15 acre-feet or less, if the use, permit or exemption does not conflict with this program.

(3) The designation of each target area shall include the identification of a historic consumptive water use retirement goal. When such goal is reached, the target area ~~will~~ *shall* be delisted.

(4) The designation of each target area shall include the identification of sub-regions ~~which~~ *that* are to be prioritized for retirements among competing bids.

(i) Contracts accepted under the program shall result in a net reduction in historic consumptive water use in the target area. Except as provided for in subsections (l) and (m), once a water right transition assistance program grant has been provided, the land authorized to be irrigated by the water right or water rights associated with that grant shall not be irrigated permanently. Water right transition assistance program contracts shall be subject to such terms, conditions and limitations as may be necessary to ensure that such reduction in historic consumptive water use occurs and can be adequately monitored and enforced.

(j) Only vested or certified water rights ~~which~~ *that* are in good standing shall be eligible for water right retirement grants.

(k) (1) The historic consumptive water use of a water right shall be determined by either:

(A) Calculating the average amount of water consumed by crops as a result of the lawful beneficial use of water during the 10 preceding calendar years of actual irrigation and multiplying the average reported water use for the 10 selected years by a factor of 0.85 for center pivot sprinkler

irrigation systems, 0.75 for flood or gravity irrigation systems and 0.95 for subsurface drip irrigation systems, but not to exceed the net irrigation requirements for the 50% chance rainfall for the appropriate county as shown in K.A.R. 5-5-12; or

(B) calculating the available pumping capacity of a water right by multiplying a flow rate test for each point of diversion applied to be retired under the water right by a theoretical pumping duration of 100 days multiplied by an efficiency factor of 0.85 for center pivot sprinkler irrigation systems, 0.75 for flood or gravity irrigation systems and 0.95 for subsurface drop irrigation systems, but not to exceed the authorized quantity of the water right or the net irrigation requirements for the 50% chance rainfall for the appropriate county as shown in K.A.R. 5-5-12. Flow rate tests must have been conducted not less than one year prior to the application date and certified as acceptable by the local groundwater management district or the chief engineer; or

(2) The applicant may also submit an engineering study that determines the average historic consumptive water use as an alternative method if it is demonstrated to be more accurate for the water right or water rights involved.

(l) Enrollment of an entire water right or a portion of a water right where land associated with the quantity is being permanently reduced from the water right in the program shall not subsequently prohibit irrigation of the land that, prior to enrollment, was authorized by the water right or water rights if irrigation can be lawfully allowed by another water right or permit pursuant to the rules and regulations and consideration of any future changes to other water rights that may be proposed to be transferred to such land.

(m) If more than one water right overlaps the place of use authorized by the water right proposed to be enrolled in the program, then all overlapping water rights shall be enrolled in the program or the landowners shall take the necessary lawful steps to eliminate the overlap with the water right to be enrolled. The burden shall be on the landowner to provide sufficient information to substantiate that the proposed use of water by the resulting exercise of all water rights involved will result in the net reduction amount of historic consumptive water use by the water right or water rights to be enrolled. The division may require such documentation to be provided by someone with special knowledge or experience related to water rights and such operations.

(n) The division shall adopt rules and regulations as necessary for the administration of this section. When adopting such rules and regulations, the division shall consider cropping, system design, metered water use and all other pertinent information that will permit a verifiable reduction in historic consumptive water use and permit alternative crop or other

use of the land so that the landowner's economic opportunities are taken into account.

(o) The division shall hold a meeting in each target area designated after July 1, 2012, prior to entering into any water right transition assistance program contract for the permanent retirement of part or all of landowner water rights in such target area. Such meetings shall inform the public of the possible economic and hydrologic impacts of the program. The division shall provide notice of such meetings through publication in local newspapers of record and in the Kansas register.

(p) The provisions of this section shall expire on July 1, 2022.

Sec. 11. K.S.A. 2020 Supp. 2-1931 is hereby amended to read as follows: 2-1931. (a) 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 right transition assistance program act or any rule and regulation adopted thereunder; and

(2) any violation of term, condition or limitation defined and or imposed within the contractual agreement between the ~~Kansas department of agriculture~~ division ~~of conservation~~ and the water right owner.

(b) Any participant who violates any section of a water right transition assistance program contract shall be subject to either one or both of the following:

(1) A civil penalty of not less than $100 nor more than $1,000 per violation. Each day shall constitute a separate violation for purposes of this section; and

(2) repayment of the grant amount in its entirety plus a penalty at 6% of the full grant amount.

(c) Any penalties or reimbursements received under this act shall be reappropriated for use in the water right transition assistance program.

(d) *No civil penalty or order for repayment shall be imposed except upon the written order of the secretary or the secretary's designee. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the secretary. Any person, within 15 calendar days after notification, may make written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reason therefor.*

(e) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(f) The provisions of this section shall expire on July 1, 2022.

Sec. 12. K.S.A. 2020 Supp. 2-1933 is hereby amended to read as follows: 2-1933. (a) As used in this section, "division" means the ~~Kansas department of agriculture~~ division of conservation *established within*

the Kansas department of agriculture in K.S.A. 74-5,126, and amendments thereto.

(b) The division shall administer the conservation reserve enhancement program (CREP) on behalf of the state of Kansas pursuant to agreements with the United States department of agriculture for the purpose of implementing beneficial water quality and water quantity projects concerning targeted watersheds to be enrolled in CREP.

(c) There is hereby established in the state treasury the Kansas conservation reserve enhancement program fund, which shall be administered by the division. All expenditures from the Kansas conservation reserve enhancement program fund shall be for the implementation of CREP pursuant to agreements between the state of Kansas and the United States department of agriculture. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by the secretary's designee.

(d) The division may request the assistance of other state agencies, Kansas state university, local governments and private entities in the implementation of CREP.

(e) The division may receive and expend moneys from the federal or state government or private sources for the purpose of carrying out the provisions of this section. All moneys received shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas conservation reserve enhancement program fund. The division shall carry over unexpended moneys in the Kansas conservation reserve enhancement program fund from one fiscal year to the next.

(f) The division may enter into cost-share contracts with landowners that will result in fulfilling specific objectives of projects approved in agreements between the United States department of agriculture and the state of Kansas.

(g) The division shall administer all CREPs in Kansas subject to the following criteria:

(1) The aggregate total number of acres enrolled in Kansas in all CREPs shall not exceed 40,000 acres;

(2) the number of acres eligible for enrollment in CREP in Kansas shall be limited to ½ of the number of acres represented by federal contracts in the federal conservation reserve program that have expired in the prior year in counties within the particular CREP area, except that if federal law permits the lands enrolled in the CREP program to be used for agricultural purposes, such as planting agricultural commodities, in-

cluding, but not limited to, grains, cellulosic or biomass materials, alfalfa, grasses or legumes, but not including cover crops, then the number of acres eligible for enrollment shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the specific CREP area;

(3) no more than 25% of the acreage in CREP may be in any one county, except that the last eligible offer to exceed the number of acres constituting a 25% acreage cap in any one county shall be approved;

(4) no whole-field enrollments shall be accepted into a CREP established for water quality purposes; and

(5) lands enrolled in the federal conservation reserve program as of January 1, 2008, shall not be eligible for enrollment in CREP.

(h) (1) For a CREP established with the purpose of meeting water quantity goals, the division shall administer such CREP in accordance with the following additional criteria:

(A) No water right that is owned by a governmental entity shall be purchased or retired by the state or federal government pursuant to CREP; and

(B) only water rights in good standing are eligible for inclusion under CREP.

(2) To be a water right in good standing:

(A) At least 50% of the maximum annual quantity authorized to be diverted under the water right that has been used in any three years within the most recent five-year period preceding the submission for which irrigation water use reports are approved and made available by the division of water resources of the Kansas department of agriculture;

(B) the water rights used for the acreage in CREP during the most recent five-year period preceding the submission for which irrigation water use reports are approved and made available by the division of water resources~~,~~ shall not have: (i) Exceeded the maximum annual quantity authorized to be diverted; and (ii) been the subject of enforcement sanctions by the division of water resources; and

(C) the water right holder has submitted the required annual water use report required under K.S.A. 82a-732, and amendments thereto, for each of the most recent 10 years.

(i) (1) The Kansas department of agriculture shall submit a CREP report to the senate committee on *agriculture and* natural resources and the house committee on agriculture ~~and natural resources~~ at the beginning of each annual regular session of the legislature ~~which shall contain~~ *containing* a description of program activities for each CREP administered in the state and ~~shall include~~ *including*:

(A) The acreage enrolled in CREP during fiscal year 2008 through the most current fiscal year to date;

(B) the dollar amounts received and expended for CREP during fiscal year 2008 through the most current fiscal year to date;

(C) an assessment of meeting each of the program objectives identified in the agreement with the farm services agency; and

(D) such other information specified by the Kansas department of agriculture.

(2) For a CREP established with the purpose of meeting water quantity goals, the following information shall be included in such annual report:

(A) The total water rights, measured in acre-feet, retired in CREP from fiscal year 2008 through the current fiscal year to date;

(B) the change in groundwater water levels in the CREP area during fiscal year 2008 through the most current fiscal year to date;

(C) the annual amount of water usage in the CREP area from fiscal year 2008 through the most current fiscal year to date; and

(D) the average water use, measured in acre-feet, for each of the five years preceding enrollment for each water right enrolled.

(j) The Kansas department of agriculture shall submit a report on the economic impact of each specific CREP to the senate committee on *agriculture and* natural resources and the house *of representatives* committee on agriculture ~~and natural resources~~ every five years, beginning in 2017. The report shall include economic impacts to businesses located within each specific CREP region.

Sec. 13. K.S.A. 2-3702 is hereby amended to read as follows: 2-3702. As used in K.S.A. 2-3701 ~~through 2-3714~~ *et seq.*, and amendments thereto:

(a) "Agricultural or specialty chemical" means any pesticide, fertilizer, plant amendment or soil amendment but does not include nitrate and related nitrogen from a natural source.

(b) "Board" means the Kansas agricultural remediation board created by K.S.A. 2-3709, and amendments thereto.

(c) "Corrective action" means action in response to release of an agricultural or specialty chemical that poses a threat to human health or the environment.

(d) "Eligible corrective action costs" means reasonable and necessary costs of corrective action, as determined in accordance with rules and regulations adopted by the board.

(e) "Eligible lending institution" means:

(1) A bank, as defined in K.S.A. 75-4201, and amendments thereto, that agrees to participate in the remediation linked deposit program and is eligible to be a depository of state funds; or

(2) an institution of the farm credit system organized under the federal farm credit act of 1971 ~~(~~, 12 U.S.C. § 2001~~)~~, as amended, that agrees to participate in the remediation linked deposit program and provides

securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(f) "Eligible person" means:

(1) A responsible party or an owner of real property, but does not include the state, any state agency, any political subdivision of the state, the federal government or any agency of the federal government; or

(2) a person who:

(A) Is involved in a transaction relating to real property;

(B) is not a responsible party or owner of the real property; and

(C) voluntarily takes corrective action on the property in response to a request or order for corrective action from the department of health and environment.

(g) "Fund" means the Kansas agricultural remediation fund established by K.S.A. 2-3711, and amendments thereto.

(h) *"Kansas pesticide waste disposal fund" means the fund established by section 2, and amendments thereto.*

(i) "Kansas pesticide waste disposal program" means the program established by section 1, and amendments thereto.

(j) "Linked deposit" means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, *and amendments thereto*, with an eligible lending institution for the purpose of the remediation linked deposit loan program.

~~(i)~~*(k) "Pesticide" means the same as provided in K.S.A. 2-2202, and amendments thereto.*

(l) (1) "Pesticide waste" means any pesticide that:

(A) Is not exempt from registration under the federal insecticide, fungicide, and rodenticide act, 7 U.S.C. § 136w(b), as in effect on January 1, 2021;

(B) is not eligible for sale or distribution; and

(C) is not otherwise eligible for return or disposal.

(2) "Pesticide waste" includes, but is not limited to:

(A) Pesticides with no identifiable owner or responsible party that have been abandoned or illegally dumped at a site;

(B) pesticides that are unregistered, canceled, suspended or revoked by the Kansas department of agriculture or the United States environmental protection agency;

(C) pesticides with missing or illegible labels;

(D) pesticides that have been adulterated;

(E) pesticides in a leaking or damaged container; or

(F) pesticides that are of no use to the current owner of such pesticides.

(m) "Release" means any spill, leak, emission, discharge, escape or disposal of an agricultural or specialty chemical into the soils or waters of the state.

~~(j)~~*(n)* "Remediation linked deposit loan package" means the forms provided by the state treasurer for the purpose of applying for a remediation linked deposit.

~~(k)~~*(o)* "Remediation linked deposit loan program" means the program provided for by K.S.A. 2-3703 through 2-3707, and amendments thereto.

~~(l)~~*(p)* "Remediation reimbursement program" means the program provided for by K.S.A. ~~2-3709~~ *2-3708* through 2-3713, and amendments thereto.

~~(m)~~*(q)* "Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances and machinery, whether fixed or mobile, including anything used for transportation, within a one-half mile radius of a release.

Sec. 14. K.S.A. 2020 Supp. 2-3708 is hereby amended to read as follows: 2-3708. (a) There is hereby established the remediation reimbursement program. The program shall be for the purpose of*:*

(1) Providing reimbursement to eligible persons for the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment*; and*

(2) providing funding to the Kansas pesticide waste disposal program in accordance with section 2, and amendments thereto.

(b) The amount of reimbursement that an eligible person may receive from the fund shall be limited as follows:

(1) Except as provided in paragraph (2), for an eligible person who has paid all applicable assessments imposed pursuant to K.S.A. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to: (A) 90% of total eligible corrective action costs greater than $1,000 and less than or equal to $100,000; plus (B) 80% of total eligible corrective action costs greater than $100,000 and less than or equal to $200,000. The total amount reimbursed for any one site shall not exceed $200,000 within a ~~5 year~~ *five-year* period or as otherwise set forth by the board pursuant to rules and regulations, unless the property has been sold or leased and both the buyer and seller or lessee and lessor are responsible for remediation, in which case the total amount reimbursed for any such site shall not exceed $400,000 within a ~~five year~~ *five-year* period or as otherwise set forth by the board pursuant to rules and regulations.

(2) For an eligible person who is not required to pay or has not paid any assessment imposed pursuant to K.S.A. 2-3713, and amendments thereto, or for a pesticide dealer who has paid the annual $5 assessment pursuant to ~~subsection (a)(4) of~~ K.S.A. 2-3713*(a)(4)*, and amendments

thereto, reimbursement per site shall not exceed an amount equal to 100% of total eligible corrective action costs greater than $1,000 and less than or equal to $10,000.

Sec. 15. K.S.A. 2020 Supp. 49-603 is hereby amended to read as follows: 49-603. As used in this act:

(a) "Director" means the executive director of the ~~Kansas department of agriculture~~ division ~~of conservation~~ or a designee.

(b) "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited, or both, but shall not include crushing areas, stockpile areas or roads.

(c) "Commission" means the *conservation program policy board created in K.S.A. 2-1904, and amendments thereto, including the* state conservation commission *continued in existence by K.S.A. 74-5,128, and amendments thereto*.

(d) "Mine" means any underground or surface mine developed and operated for the purpose of extracting rocks, minerals and industrial materials, other than coal, oil and gas. Mine does not include borrow areas created for construction purposes.

(e) "Operator" means any person who engages in surface mining or operation of an underground mine or mines.

(f) "Overburden" means all of the earth and other materials ~~which~~ *that* lie above the natural deposits of material being mined or to be mined.

(g) "Peak" means a projecting point of overburden removed from its natural position and deposited elsewhere in the process of surface mining.

(h) "Pit" means a tract of land from which overburden has been or is being removed for the purpose of surface mining.

(i) "Ridge" means a lengthened elevation of overburden removed from its natural position and deposited elsewhere in the process of surface mining.

(j) (1) "Surface mining" means the mining of material, except for coal, oil and gas, for sale or for processing or for consumption in the regular operation of a business by removing the overburden lying above natural deposits and mining directly from the natural deposits exposed, or by mining directly from deposits lying exposed in their natural state, or the surface effects of underground mining. Surface mining shall include dredge operations lying outside the high banks of streams and rivers.

(2) Removal of overburden and mining of limited amounts of any materials shall not be considered surface mining when done only for the purpose and to the extent necessary to determine the location, quantity or quality of the natural deposit, if the materials removed during exploratory excavation or mining are not sold, processed for sale or consumed in the regular operation of a business.

(k) "Topsoil" means the natural medium located at the land surface with favorable characteristics for growth of vegetation, which is normally the A or B, or both, soil horizon layers of the four soil horizons.

(l) "Active site" means a site where surface mining is being conducted.

(m) "Inactive site" means a site where surface mining is not being conducted but where overburden has been disturbed in the past for the purpose of conducting surface mining and an operator anticipates conducting further surface mining operations in the future.

(n) "Materials" means natural deposits of gypsum, clay, stone, sandstone, sand, shale, silt, gravel, volcanic ash or any other minerals of commercial value found on or in the earth with the exception of coal, oil and gas and those located within cut and fill portions of road rights-of-way.

(o) "Reclamation" means the reconditioning of the area of land affected by surface mining to a usable condition for agricultural, recreational or other use.

(p) "Stockpile" means the finished products of the mining of gypsum, clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash or other minerals and removal from its natural position and deposited elsewhere for future use in the normal operation as a business.

(q) "Underground mining" means the extraction of rocks, minerals and industrial materials, other than coal, oil and gas, from the earth by developing entries or shafts from the surface to the seam or deposit before recovering the product by underground extraction methods.

(r) "Person" means any individual, firm, partnership, corporation, government or other entity.

(s) "Division" ~~or "Kansas department of agriculture division of conservation"~~ means the ~~agency~~ *division of conservation* established ~~by~~ *within the Kansas department of agriculture in* K.S.A. 74-5,126, and amendments thereto.

(t) "Secretary" means the Kansas secretary of agriculture.

Sec. 16. K.S.A. 49-605 is hereby amended to read as follows: 49-605. (a) No person shall engage in surface mining or operation of an underground mine or mines, as defined by this act, without first obtaining a license from the director.

(b) Licenses shall be issued upon application submitted on a form provided by the director and shall be accompanied by a fee of $300. Each applicant shall be required to furnish on the form information necessary to identify the applicant. Licenses shall expire one year from the date of issuance and shall be renewed by the director upon application submitted within 30 days prior to the expiration date and accompanied by the renewal fee established by the director under K.S.A. 49-623*, and amendments thereto*.

(c) A license to mine is only valid when approved by the ~~commission~~ *director* and acknowledged by a certificate ~~which~~ *that* has been signed by the director and lists the operator and the assigned license number.

Sec. 17. K.S.A. 2020 Supp. 49-606 is hereby amended to read as follows: 49-606. (a) The *secretary, at the request of the* director, ~~with the approval of the commission,~~ may deny issuance or renewal of a license for repeated or willful violation of the provisions of this act or for failure to comply with any provision of a reclamation plan.

(b) The *secretary, at the request of the* director, ~~with the approval of the commission,~~ may suspend or revoke a license for repeated or willful violation of any of the provisions of this act or for failure to comply with any provision of a reclamation plan. Proceedings for the suspension or revocation of a license pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act by the ~~director~~ *secretary* or a presiding officer from the office of administrative hearings.

Sec. 18. K.S.A. 49-611 is hereby amended to read as follows: 49-611. (a) An operator authorized under this act to operate a mine, after completion of mining operations and within the time specified in K.S.A. 49-613, *and amendments thereto,* shall:

(1) Grade affected lands except for impoundments and pit floors to slopes no steeper than one foot vertical rise for each three feet of horizontal distance. Where the original topography of the affected land was steeper than one foot of vertical rise for each three feet of horizontal distance, the affected lands may be graded to blend with the surrounding terrain. The grading of high banks of sand pits and highwalls may be modified or exempted by the director.

(2) Provide for the vegetation of the affected lands, except for impoundments, pit floors, and highwalls, as approved by the director before the release of the bond as provided in K.S.A. 49-616*, and amendments thereto*.

(b) Notwithstanding subsection (a), overburden piles where disposition has not occurred or will not occur for a period of 12 months shall be stabilized.

(c) Topsoil that is a part of overburden shall not be buried or destroyed in the process of mining.

(d) The director, with concurrence of the ~~commission~~ *secretary*, may grant a variance from the requirements of subsections (a) and (b).

(e) A bond or security posted under this act to assure reclamation of affected lands shall not be released until all reclamation work required by this section has been performed in accordance with the provisions of this act, except when a replacement bond or security is posted by a new operator or responsibility is transferred under K.S.A. 49-610*, and amendments thereto*.

Sec. 19. K.S.A. 49-613 is hereby amended to read as follows: 49-613. (a) An operator shall reclaim affected lands within a period not to exceed three years after the filing of the report required under ~~subsection (b) of~~ K.S.A. 49-612*(b), and amendments thereto,* indicating the mining of any part of a site has been completed.

(b) For certain postmining land uses, such as a sanitary land fill, the director, with the approval of the ~~commission~~ *secretary*, may allow an extended reclamation period.

(c) An operator, upon completion of any reclamation work required by K.S.A. 49-611*, and amendments thereto*, shall apply to the director in writing for approval of the work. The director, within a reasonable time ~~as determined by the commission~~, shall inspect the completed reclamation work. Upon determination by the director that the operator has satisfactorily completed all required reclamation work on the land included in the application, the ~~commission~~ *director* shall release the bond or security on the reclaimed land, shall remove the land from registration~~,~~ and shall terminate or amend, as necessary, the operator's authorization to conduct surface mining on the site.

(d) Periodic inspections may be conducted by the director or the director's designee~~,~~ to ensure that the operator is following the reclamation plan.

Sec. 20. K.S.A. 49-618 is hereby amended to read as follows: 49-618. *(a)* The director or the director's designee, when accompanied by the operator or operator's designee during regular business hours, may inspect any lands on which any operator is authorized to operate a mine for the purpose of determining whether the operator is or has been complying with the provisions of this act.

(b) The director shall give written notice to any operator who violates any of the provisions of this act or any rules and regulations adopted by the director pursuant to this act.

(c) If corrective measures approved by the director are not commenced within 90 days, the ~~violation shall be referred to the commission. The operator shall be notified in writing of the referral~~ *secretary shall, at the request of the director, issue a written order stating the nature of the violation, the penalty to be imposed and the right of the person to appeal to the secretary pursuant to K.S.A. 49-621, and amendments thereto.*

Sec. 21. K.S.A. 49-620 is hereby amended to read as follows: 49-620. ~~The attorney general, upon request of the commission,~~ *Once an order issued pursuant to this act becomes a final order, the secretary, upon request of the director,* shall institute proceedings for forfeiture of the bond posted by an operator to guarantee reclamation of a site where the operator is in violation of any of the provisions of this act or any rule and regulation adopted by the director pursuant to this act. Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to reclaim

affected land covered by the bond. The director shall have the power to reclaim, as required by K.S.A. 49-611, *and amendments thereto,* any surface mined land with respect to which a bond has been forfeited, using the proceeds of the forfeiture to pay for the necessary reclamation work.

Sec. 22. K.S.A. 2020 Supp. 49-621 is hereby amended to read as follows: 49-621. (a) The ~~director~~ *secretary*, upon finding that the operator has failed to comply with any provision of this act, any provision of a reclamation plan or any condition of a license or site registration with which the operator is required to comply pursuant to this act, may impose upon the operator a civil penalty not exceeding $1,000 for each day of noncompliance.

(b) All civil penalties assessed pursuant to this section shall be due and payable within 35 days after written notice of the imposition of a civil penalty has been served upon whom the penalty is being imposed, unless a longer period of time is granted by the ~~director~~ *secretary* or unless the operator appeals the assessment as provided in this section.

(c) No civil penalty shall be imposed under this section except upon the written order of the ~~director~~ *secretary* or the ~~director's~~ *secretary's* designee to the operator upon whom the penalty is to be imposed, stating the nature of the violation, the penalty imposed and the right of the operator upon whom the penalty is imposed to appeal to the director for a hearing on the matter. An operator upon whom a civil penalty has been imposed may appeal, within 15 days after service of the order imposing the civil penalty, to the ~~director~~ *secretary*. If appealed, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. The decision of the ~~director~~ *secretary* shall be final unless review is sought under subsection (d).

(d) Any action of the ~~director~~ *secretary* pursuant to this section is subject to review in accordance with the Kansas judicial review act.

Sec. 23. K.S.A. 49-623 is hereby amended to read as follows: 49-623. (a) The ~~director~~ *secretary*, with the approval of the commission, shall adopt such rules and regulations as necessary to administer and enforce the provisions of this act.

(b) The ~~commission~~ *director* shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall recommend to the ~~director~~ *secretary* such license renewal, registration application, registration and registration renewal fees as the ~~commission~~ *director* determines necessary for that purpose. The director shall adopt such fees by ~~rule~~ *rules* and ~~regulation~~ *regulations*.

(c) *Before the director submits any such proposed rules and regulations to the director of the budget, the secretary of administration and the attorney general in accordance with the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto:*

(1) The director shall submit such rules and regulations to the commission; and

(2) the commission shall review and make recommendations to the director and the secretary regarding such proposed rules and regulations.

(d) Fees for license renewal, registration and registration renewal shall be based on an operator's acres of affected land or the tonnage of materials extracted by the operator during the preceding license year, or a combination thereof.

~~(d)~~*(e)* Political subdivisions of the state shall be exempt from all fees imposed under this act.

Sec. 24. K.S.A. 82a-1602 is hereby amended to read as follows: 82a-1602. In order to provide public water supply storage and water related recreational facilities in the state, there is hereby established a multipurpose small lakes program. The program shall be administered by the ~~Kansas department of agriculture~~ division ~~of conservation~~. Except as otherwise provided by this act, the ~~Kansas department of agriculture~~ division ~~of conservation~~, with the approval of the ~~state conservation commission~~ *secretary,* shall adopt all rules and regulations necessary to implement the provisions of this act.

Sec. 25. K.S.A. 82a-1603 is hereby amended to read as follows: 82a-1603. When used in this act:

(a) "Chief engineer" means the chief engineer of the division of water resources of the department of agriculture.

(b) "Class I funded project" means a proposed new project or renovation of an existing project located within the boundaries of an organized watershed district ~~which~~ *that* is receiving or is eligible to receive financial participation from the ~~Kansas department of agriculture~~ division ~~of conservation~~ for the flood control storage portion of the project.

(c) "Class II funded project" means a proposed new project or renovation of an existing project ~~which~~ *that* is receiving or is eligible to receive financial participation from the federal government.

(d) "Class III funded project" means a proposed new project or renovation of an existing project located outside the boundaries of an organized watershed district ~~which~~ *that* is not receiving or is not eligible to receive financial participation from the ~~Kansas department of agriculture~~ division ~~of conservation~~ or the federal government except as provided in K.S.A. 82a-1606, and amendments thereto.

(e) *"Division" means the division of conservation established within the Kansas department of agriculture in K.S.A. 74-5,126, and amendments thereto.*

(f) "Flood control storage" means storage space in reservoirs to hold flood waters.

~~(f)~~*(g)* "Future use public water supply storage" means storage space ~~which~~ *that* the Kansas water office determines will be needed within the next 20 years for use by public water supply users in an area but for which there is no current sponsor.

~~(g)~~*(h)* "General plan" means a preliminary engineering report describing the characteristics of the project area, the nature and methods of dealing with the soil and water problems within the project area~~,~~ and the projects proposed to be undertaken by the sponsor within the project area. Such plan shall include*:* Maps, descriptions and other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken; a cost-benefit analysis of alternatives to the project, including, but not limited to, nonstructural flood control options and water conservation and reuse to reduce need for new water supply storage; and any other data and information as the chief engineer may require.

~~(h)~~*(i)* "Land right" means real property as that term is defined by the laws of the state of Kansas and all rights thereto and interest therein and ~~shall include~~ *includes* any road, highway, bridge, street, easement or other right-of-way thereon.

~~(i)~~*(j)* "Multipurpose small lake project" means a dam and lake containing: (1) Flood control storage; and (2) either public water supply storage or recreation features, or both.

~~(j)~~*(k)* "Public water supply" means a water supply for municipal, industrial or domestic use.

~~(k)~~*(l)* "Public water supply storage" means storage of water for municipal, industrial or domestic use.

~~(l)~~*(m)* "Recreation feature" means water storage and related facilities for activities such as swimming, fishing, boating, camping or other related activities.

~~(m)~~*(n)* "Renovation" means repair or restoration of an existing lake ~~which~~ *that* contains water storage space for use as a public water supply and ~~which~~ *that* has either recreational purposes or flood control purposes, or both.

~~(n)~~*(o) "Secretary" means the secretary of the Kansas department of agriculture.*

(p) "Sponsor" means: (1) Any political subdivision of the state ~~which~~ *that* has the power of taxation and the right of eminent domain; (2) any public wholesale water supply district; or (3) any rural water district.

~~(o)~~*(q)* "Water user" means any city, rural water district, wholesale water district or any other political subdivision of the state ~~which~~ *that* is in the business of furnishing municipal or industrial water to the public.

Sec. 26. K.S.A. 82a-1607 is hereby amended to read as follows: 82a-1607. Sponsors shall apply to the ~~state conservation commission~~ *division*

for participation in the multipurpose small lakes program. The review and approval process of the ~~Kansas department of agriculture~~ division ~~of conservation~~ shall be established by rules and regulations ~~which~~ *that* shall be consistent with the state water plan. Following review, the ~~Kansas department of agriculture~~ division ~~of conservation~~, with the approval of the ~~state conservation commission~~ *secretary,* shall request appropriations for specific projects from the legislature. Any funds appropriated to carry out the provisions of this act shall be administered by the ~~Kansas department of agriculture~~ division ~~of conservation~~.

Sec. 27. K.S.A. 82a-1702 is hereby amended to read as follows: 82a-1702. (a) The state shall provide financial assistance to certain public corporations for part of the costs or reimbursement of part of the costs of installation of water development projects~~,~~ ~~which~~ *that* derive general benefits to the state as a whole~~,~~ or to a section thereof beyond the boundaries of such public corporation.

(b) *(1)* Any public corporation shall be eligible for state financial assistance for a part of the costs it becomes actually and legally obligated to pay for all lands, easements~~,~~ and rights-of-way for the water development projects in the event the ~~state~~ *Kansas department of agriculture division of* conservation ~~commission~~ shall find that:

~~(1)~~*(A)* Such public corporation has made application for approval of such financial assistance with the Kansas department of agriculture division of conservation in such form and manner as the Kansas department of agriculture division of conservation may require, which application each public corporation is hereby authorized to make;

~~(2)~~*(B)* such works will confer general flood control benefits beyond the boundaries of such public corporation in excess of 20% of the total flood control benefits of the works;

~~(3)~~*(C)* such works are consistent with the state water plan;

~~(4)~~*(D)* such public corporation will need such financial assistance for actual expenditures within the fiscal year next following; and

~~(5)~~*(E)* the legislature has appropriated funds for the payment of such sum.

(2) The payment authorized hereunder shall be limited to an amount equal to the total costs the public corporation shall become actually and legally obligated to spend for lands, easements~~,~~ and rights-of-way for such water resource development works, multiplied by the ratio that the flood control benefits conferred beyond the boundaries of the public corporation bear to the total flood control benefits of the project. Such findings shall each be made at and in such manner as is provided by procedural rules and regulations ~~which~~ *that* shall be adopted by the Kansas department of agriculture division of conservation with the approval of the ~~state conservation commission~~ *secretary*.

(c) Any public corporation receiving financial assistance under this section shall apply those sums toward the satisfaction of the legal obligations for the specific lands, easements~~,~~ and rights-of-way for which it receives them or toward the reimbursement of those accounts from which those legal obligations were satisfied, in whole or in part, and it shall return to the state any sums that are not in fact so applied. In ascertaining costs of lands, easements~~,~~ and rights-of-way under this section, the Kansas department of agriculture division of conservation shall not consider any costs ~~which~~ *that* relate to land treatment measures ~~nor~~ *or* any costs for which federal aid for construction costs is granted pursuant to the watershed protection and flood prevention acts or pursuant to any other federal acts.

Sec. 28. K.S.A. 2-1916, 2-3702, 49-605, 49-611, 49-613, 49-618, 49-620, 49-623, 82a-1602, 82a-1603, 82a-1607 and 82a-1702 and K.S.A. 2020 Supp. 2-1903, 2-1904, 2-1907, 2-1907c, 2-1908, 2-1915, 2-1930, 2-1931, 2-1933, 2-3708, 49-603, 49-606 and 49-621 are hereby repealed.

Sec. 29. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 21, 2021.

Published in the *Kansas Register* May 6, 2021.

CHAPTER 75

HOUSE BILL No. 2243

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; adjusting the frequency of the actuarial experience study; providing a moratorium on death and long-term disability employer contributions to the group insurance reserve fund; allowing the extension of certain initial DROP periods under the Kansas deferred retirement option program act; conforming certain KPERS provisions with the federal CARES act; amending K.S.A. 74-4908, 74-4908a, 74-4927, 74-4986n and 74-49,123 and K.S.A. 2020 Supp. 74-4986l and repealing the existing sections.

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

Section 1. K.S.A. 74-4908 is hereby amended to read as follows: 74-4908. (1) The board shall appoint an executive director and shall establish the compensation therefor. Subject to the direction of the board, the executive director shall be the managing officer of the system and ~~as such~~ shall have charge of the office, records and supervision and direction of the employees of the system. The executive director shall be in the unclassified service under the Kansas civil service act.

(2) The executive director shall recommend to the board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this act and the directions of the board. Upon approval of the board, the executive director is authorized to employ such persons in accordance with the Kansas civil service act.

(3) The board of trustees shall select and employ or retain a qualified actuary who shall serve at its pleasure as its technical advisor on matters regarding operation of the system. The actuary shall:

(a) Make an annual valuation of the liabilities and reserves of the system, and a determination of the contributions required by the system to discharge its liabilities and administrative costs under this act, and recommend to the board rates of employer contributions required to establish and maintain the system on an actuarial reserve basis. Such recommended employer contributions shall not be based on any other purpose outside of the needs of the system as prescribed by this subsection~~.~~*;*

(b) ~~As soon after the effective date as practicable and once every three years thereafter,~~ *commencing from the most recent actuarial experience study completed prior to July 1, 2021, every four years, or more or less frequently if deemed necessary by the board in the exercise of the board's fiduciary duty to act in the best interest of the Kansas public employees retirement fund,* make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover ~~and interest~~, *member compensation, inflation and investment returns,* and recommend actuarial tables for use in valuations and in calculating actuarial

equivalent values based on such investigation. *Any adjustment by the board to the frequency of such investigation shall be not more frequent than once every three years and not less frequent than once every five years;*

(c) cooperate with and provide any assistance to the actuary, the legislative coordinating council and the joint committee on pensions, investments and benefits related to the independent actuarial audit and evaluation as provided in K.S.A. 74-4908a, and amendments thereto.*; and*

(d) perform such other duties as may be assigned by the board.

(4) The attorney general of the state shall furnish such legal services as may be necessary upon receipt of a request from the board, except that legal services may be furnished by other counsel as the board in its discretion deems necessary and prudent.

(5) The board shall employ or retain qualified investment counsel or counselors or may negotiate with a trust company to assist and advise in the judicious investment of funds as herein provided.

(6) Subject to limitations imposed pursuant to this subsection and otherwise provided by law, the board may appoint such officers and employees necessary to advise and assist the board in the performance of powers, duties and functions relating to the management and investment of the fund and in such other matters as may be directed by the board. Such appointed officers and employees shall be in the unclassified service under the Kansas civil service act. The provisions of this subsection shall not affect the classified status of any employee in the classified service under the Kansas civil service act who is employed on the date immediately preceding July 1, 2014. The board is authorized to assign any new or vacant position created by the system on or after the effective date of this act to the classified or unclassified service under the Kansas civil service act. The compensation of such appointed officers and employees in the unclassified service under the Kansas civil service act shall be established by the board.

(7) The board may establish a program for the paying of bonus awards to unclassified officers and employees pursuant to procedures established by the board.

Sec. 2. K.S.A. 74-4908a is hereby amended to read as follows: 74-4908a. Commencing in the fiscal year that commenced in calendar year 1995 and at least once every six years thereafter, there shall be an independent actuarial audit and evaluation of the actuarial services and valuations provided to the board of trustees of the Kansas public employees retirement system pursuant to ~~subsection (3) of~~ K.S.A. 74-4908*(3),* and amendments thereto. Such independent audit and evaluation shall be conducted by an actuary other than the actuary employed or retained by the board pursuant to ~~subsection (3) of~~ K.S.A. 74-4908*(3),* and amendments thereto. Such independent audit and evaluation shall include a review of all assumptions, evaluations and methodology utilized by the

actuary employed or retained by the board as provided in ~~subsection (3) of~~ K.S.A. 74-4908*(3)*, and amendments thereto, and shall express an opinion regarding the reasonableness or accuracy of the actuarial assumptions, actuarial cost methods, valuation results and statutory contribution rates and shall include certifications that the actuarial valuation report was performed by a qualified actuary, that the valuation was prepared in accordance with principles of practices prescribed by the actuarial standards board and that the actuarial calculations were performed by qualified actuaries in accordance with accepted actuarial procedures and that such actuary conducting the independent actuarial audit and evaluation shall perform test work on the data used by the system for the annual *valuation* and ~~three-year performance~~ *actuarial experience* review required by K.S.A. 74-4908, and amendments thereto. The actuary conducting the independent actuarial audit and evaluation as required by this section shall be employed by the legislative coordinating council as provided in K.S.A. 46-1204, and amendments thereto.

Sec. 3. K.S.A. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to $66^{2}/_{3}\%$ of the member's annual rate of compensation on the date such disability commenced. Such plan shall provide that:

(A) The right to receive such long-term disability benefit shall cease: (i) For a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs; and (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under K.S.A. 74-4916(3), and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration ~~which~~ *that* include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount ~~which~~ *that* a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability bene-

fit payments under such plan. However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member's employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member's monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this paragraph, "maximum monthly compensation" means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation that is used to calculate disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment other than a supplemental benefit based solely on compensation in excess of the maximum monthly compensation taken into account under such plan, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to: Qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary for children and families and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such

disability. Such member's final average salary shall be computed in accordance with K.S.A. 74-4902(17), and amendments thereto, except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) ~~four percent~~ *4%* per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions ~~which~~ *that* are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company ~~which~~ *that* issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company ~~which~~ *that* issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. Each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer other than the state of Kansas shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on ~~April 1, 2016~~ *July 1, 2021*, and ending on June 30, ~~2017~~ *2022*. Notwithstanding the

provisions of this subsection, the state of Kansas shall not appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on ~~March 25, 2016~~ *July 1, 2020*, and ending on June 30, ~~2017~~ *2021*.

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of K.S.A. 74-4920(4), and amendments thereto, shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan for employees and spouses and dependents of employees. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees ~~which~~ *that* should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than $200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection ~~(6)~~ and

shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection ~~(6)~~.

(7) Any employer other than the state of Kansas ~~which~~ *that* is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 4. K.S.A. 2020 Supp. 74-4986l is hereby amended to read as follows: 74-4986l. (a) As used in this act, unless otherwise provided or the context otherwise requires:

(1) "Act" means the Kansas deferred retirement option program act;

(2) "board" means the board of trustees of the Kansas public employees retirement system;

(3) "DROP" means the deferred retirement option program established by K.S.A. 74-4986m, and amendments thereto;

(4) "DROP account" means the notional account to which is credited the monthly DROP accrual;

(5) "DROP period" means the period of time that a member ~~irrevocably~~ elects to participate in the DROP pursuant to K.S.A. 74-4986n, and amendments thereto;

(6) "member" means a trooper, examiner or officer of the Kansas highway patrol or an agent of the Kansas bureau of investigation who is eligible to participate in the DROP and who elects to participate in the DROP as provided in this act;

(7) "monthly DROP accrual" means the amount equal to the monthly retirement benefit that would have been payable to the member had the member terminated service and retired on the day the member elected; and

(8) "system" means the Kansas police and firemen's retirement system.

(b) Unless specifically provided in this section or in this act, words and phrases used in this act ~~shall have the meanings ascribed to them~~ *mean the same* as provided under the provisions of K.S.A. 74-4901 et seq. and ~~K.S.A.~~ 74-4951 et seq., and amendments thereto.

Sec. 5. K.S.A. 74-4986n is hereby amended to read as follows: 74-4986n. (a) (1) A member who is appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a, and amendments thereto, may elect to participate in the DROP by making application in such form prescribed by the system at the attainment of age 55 and the completion of 20 years of credited service or at the completion of 32 years of credited service regardless of the age of such member.

(2) A member who is appointed or employed on or after July 1, 1989, or who made an election pursuant to K.S.A. 74-4955a, and amendments thereto, may elect to participate in the DROP by making application in such form prescribed by the system at the attainment of age 55 and the completion of 20 years of credited service, age 50 and the completion of 25 years of credited service or age 60 with the completion of 15 years of credited service.

(b) A member shall indicate on the application the DROP period such member wishes to participate in the DROP. A member may elect to participate in the DROP for a minimum of three years and may not participate for more than five years from the effective date of the election to participate in the DROP. A member may participate in the DROP only once. ~~An election under this section is a one-time irrevocable election.~~ Once the application is accepted by the system, such member becomes a DROP participant. If a member fails to participate in the DROP for a minimum of three years, all of the member's interest credits shall be forfeited, unless such member retires due to disability as defined in K.S.A. 74-4952, and amendments thereto. A member who remains in active service at the expiration of the member's elected DROP period shall not be eligible for any additional interest credits. *A member who first elected a DROP period of less than five years may extend, with the employer's authorization, such DROP period upon making application to the system. The total aggregate DROP period for a member shall be consecutive and shall not exceed five years from the effective date of the initial election to participate in the DROP.*

(c) A member who makes an election under this section shall continue in the active service under the Kansas police and firemen's retirement

system but shall not earn service credit under K.S.A. 74-4951 et seq., and amendments thereto, after the election's effective date. On and after the effective date of the member's election to participate, such member is ineligible to purchase service credit under K.S.A. 74-4901 et seq., and amendments thereto.

(d) Participation in the DROP by a member does not guarantee continued employment. During a member's participation in the DROP, employer contributions under K.S.A. 74-4967, and amendments thereto, and member contributions under K.S.A. 74-4965, and amendments thereto, shall be made to the retirement system. No member or employer contributions shall be applied to a member's DROP account.

Sec. 6. K.S.A. 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 retirement 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~~ *72* years of age*, or 70½ years of age if the member was born before July 1, 1949,* 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~~ *72* years of age*, or 70½ years of age if the member was born before July 1, 1949,* 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 distributed 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)(l)(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 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 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 subpara-

graph (C), and for purposes of applying 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 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~~ *that* such member has not received under a retirement plan; and

(c) ~~which~~ *that* 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~~ *that* 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 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 subclause; or

(b) any nonqualified service credit is taken into account under this subclause before the member has at least five years of participation under a retirement plan. For purposes of this 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 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 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 payments 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 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~~ *12-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 dis-

tribution 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 retirement 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 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 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 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. 7. K.S.A. 74-4908, 74-4908a, 74-4927, 74-4986n and 74-49,123 and K.S.A. 2020 Supp. 74-4986l 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 21, 2021.

CHAPTER 76

HOUSE BILL No. 2244

AN ACT concerning industrial hemp; relating to the effective disposal thereof by the department of agriculture in coordination with state or local law enforcement; requiring industrial hemp processors to register with the state fire marshal; providing exemptions from regulations; allowing issuance of stop sale, use or removal orders; amending K.S.A. 2020 Supp. 2-3901, 2-3903, 2-3907 and 2-3908 and repealing the existing sections.

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

New Section 1. (a) Whenever a person licensed under the commercial industrial hemp act is required to conduct effective disposal of industrial hemp pursuant to standards established by the controlled substances act, 21 U.S.C. 13 et seq., or under regulations adopted by the United States drug enforcement administration, the Kansas department of agriculture shall notify state or local law enforcement agencies with jurisdiction in the area in which the industrial hemp was grown that effective disposal is required.

(b) The department shall develop a plan for effective disposal of industrial hemp in coordination with the state or local law enforcement agency notified pursuant to subsection (a).

(c) (1) In order to carry out the provisions of this section, the department is authorized to perform any action necessary to ensure that effective disposal of industrial hemp occurs, including, but not limited to:

(A) Taking temporary possession of the industrial hemp;

(B) destroying the industrial hemp; or

(C) supervising and directing any appropriate method of effective disposal.

(2) The state or local law enforcement agency shall approve in advance any such action taken by the department or any person under the department's direction or supervision.

(d) (1) The secretary may require any employee or agent of the department who participates in the effective disposal of industrial hemp to be fingerprinted and to submit to a state and national criminal history record check annually. The secretary may use the information obtained from fingerprinting and the criminal history record check to verify the identity of the employee or agent and determine whether the employee or agent has been convicted of a felony violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or a substantially similar offense in another jurisdiction, within the 10 years immediately preceding submission of such criminal history record check. The department 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.

(2) Local and state law enforcement officers and agencies shall assist in the taking and processing of fingerprints of such employee or agent of the department. Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in the taking and processing of fingerprints under this subsection. The department shall pay the costs of fingerprinting and the state and national criminal history record check.

(e) The department and the appropriate state or local law enforcement agency may seek reimbursement from any individual licensed under the commercial industrial hemp act for any costs incurred in conducting effective disposal of industrial hemp.

(f) The department shall have no authority to conduct effective disposal for any industrial hemp or cannabis plant produced by individuals not licensed under the commercial industrial hemp act.

(g) Nothing in this section shall limit the jurisdiction or authority of state or local law enforcement to enforce article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(h) This section shall be a part of and supplemental to the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et seq., and amendments thereto.

New Sec. 2. In addition to any other remedy that the state fire marshal may exercise pursuant to the Kansas fire prevention code, K.S.A. 31-132 et seq., and amendments thereto, the state fire marshal may issue a stop sale, use or removal order whenever the state fire marshal reasonably believes that hemp products are being produced, sold or distributed in violation of the commercial industrial hemp act or any rules and regulations promulgated thereunder. No stop sale, use or removal order shall be valid for more than seven calendar days. No person who has been issued a stop sale, use or removal order shall process, sell, distribute, use or remove industrial hemp, hemp products or hemp waste until any such stop sale, use or removal order is revoked in writing by the state fire marshal.

Sec. 3. K.S.A. 2020 Supp. 2-3901 is hereby amended to read as follows: 2-3901. (a) K.S.A. 2020 Supp. 2-3901 et seq., and amendments thereto, shall be known and may be cited as the commercial industrial hemp act.

(b) As used in the commercial industrial hemp act:

(1) "Commercial" means the cultivation or production of industrial hemp for purposes other than research as authorized under K.S.A. 2020 Supp. 2-3906, and amendments thereto.

(2) "Delta-9 tetrahydrocannabinol concentration" means the combined percentage of delta-9 tetrahydrocannabinol and its optical isomers, their salts and acids, and salts of their acids, reported as free THC:

(A) On a dry weight basis, of any part of the plant cannabis sativa L.; or

(B) on a percentage by weight basis in hemp products, waste or substances resulting from the production or processing of industrial hemp.

(3) "Effective disposal" includes, but is not limited to:

(A) Destruction; or

(B) any other method of disposing of industrial hemp or hemp products found to be in violation of this act that is permitted under the provisions of 7 U.S.C. § 1621 et seq. and any rules and regulations adopted thereunder.

(4) "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption and ~~authorized seed or clone plants for cultivation, if the seeds originate from industrial hemp varieties~~ *any extract from industrial hemp intended for further processing. Final "hemp products" may contain a tetrahydrocannabinol concentration of not more than 0.3%. As used in this paragraph, "tetrahydrocannabinol concentration" means the same as in K.S.A. 65-6235(b)(3), and amendments thereto.*

(5) "Hemp producer" means any individual, licensed or otherwise, engaging in the cultivation or production of industrial hemp for commercial purposes pursuant to K.S.A. 2020 Supp. 2-3906, and amendments thereto.

(6) "Hemp processor" means a person registered under K.S.A. 2020 Supp. 2-3907, and amendments thereto, to process and manufacture industrial hemp and hemp products.

(7) "Industrial hemp" means all parts and varieties of the plant cannabis sativa L., whether growing or not, that contain a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

(8) "Person" means an individual, corporation, partnership, association, joint stock company, trust, unincorporated organization or any similar entity or any combination of the foregoing acting in concert.

(9) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purpose of seed production.

(10) "State educational institution" means the university of Kansas, Kansas state university, Wichita state university, Emporia state university, Pittsburg state university and Fort Hays state university.

(11) "Authorized seed or clone plants" means a source of industrial hemp seeds or clone plants that:

(A) Has been certified by a certifying agency, as defined by K.S.A. 2-1415, and amendments thereto;

(B) has been produced from plants that were tested during the active growing season and were found to produce industrial hemp having a tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis and has been certified in writing by the grower or distributor of such seeds or clone plants to possess such qualities; or

(C) meets any other authorized standards approved by the Kansas department of agriculture through rules and regulations, except that no seed or clone plants shall be considered authorized seed or clone plants if they do not meet any standard adopted by the United States department of agriculture pursuant to 7 U.S.C. § 1621 et seq., and amendments thereto.

Sec. 4. K.S.A. 2020 Supp. 2-3903 is hereby amended to read as follows: 2-3903. (a) The alternative crop research act licensing fee fund created in the state treasury shall be renamed the commercial industrial hemp act licensing fee fund and continue to be administered by the secretary of agriculture. All expenditures from the commercial industrial hemp act licensing fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers signed by the secretary of agriculture or the secretary's designee.

(b) *Except as provided in K.S.A. 2020 Supp. 2-3907, and amendments thereto,* licensing and renewal fees shall be established pursuant to rules and regulations adopted by the secretary under the commercial industrial hemp act. The amounts received for such fees shall be deposited in the state treasury in accordance with K.S.A. 75-4215, and amendments thereto, and shall be credited to the commercial industrial hemp act licensing fee fund.

Sec. 5. K.S.A. 2020 Supp. 2-3907 is hereby amended to read as follows: 2-3907. (a) The ~~Kansas department of agriculture~~ *state fire marshal* shall create and maintain a registry of all hemp processors operating within the state of Kansas.

(b) Any person engaging in the processing of industrial hemp shall register annually with the ~~secretary of agriculture~~ *state fire marshal* prior to processing industrial hemp~~, except as provided in subsection (f)~~.

(c) Registration shall expire annually on ~~April~~ *June* 30. ~~A~~ Registration ~~fee~~ *fees*, not to exceed ~~$200~~ *$1,000*, shall be established pursuant to rules and regulations adopted by the ~~secretary~~ *state fire marshal*.

(d) Any person required to register as a hemp processor pursuant to this section shall submit an annual registration application on a form provided by the ~~secretary~~ *state fire marshal* that shall include, at a minimum:

(1) The full legal name, date of birth, address and telephone number of the applicant. If the applicant is not an individual, the same information shall also be provided for all owners and the individual responsible for all industrial hemp processing and related activities performed by the applicant;

(2) the physical location of any premises that will serve as a part of the applicant's industrial hemp processing operations;

(3) a brief description of the industrial hemp processing methods, activities and products planned for production; and

(4) certification that such applicant has fully complied with the fingerprinting and criminal history record check requirements contained in this

section, if applicable. Any such applicant who provides a false statement of compliance with such requirements shall be guilty of a class C nonperson misdemeanor.

(e) The ~~Kansas department of agriculture~~ *state fire marshal* shall provide an updated list of all hemp processors to the Kansas bureau of investigation and to the county sheriff in each county where a hemp processor is located as often as is reasonably required or requested.

(f) ~~No hemp processor who is licensed under K.S.A. 2020 Supp. 2-3902, and amendments thereto, shall be required to register pursuant to this section, but the secretary shall include such hemp processors in the list of registered hemp processors maintained by the Kansas department of agriculture pursuant to this section.~~

~~(g)~~ Fees collected pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~commercial industrial hemp act licensing~~ *fire marshal* fee fund.

~~(h)~~(*g*) ~~Except as provided in subsection (f),~~ It shall be unlawful for any person to operate as a hemp processor without valid registration.~~(i) (1)~~ Upon a first conviction for a violation of *this* subsection ~~(h)~~, a person shall be guilty of a class A nonperson misdemeanor.~~(2)~~ On a second or subsequent conviction for a violation of *this* subsection ~~(h)~~, a person shall be guilty of a severity level 9, nonperson felony.

~~(j) (1) A registered hemp processor, or an applicant to become a registered hemp processor, shall request the Kansas bureau of investigation to conduct a state and national criminal history record check on any individual employed or seeking employment under such registered hemp processor or applicant who would be engaged in extraction of cannabinoids, including through the disposal of cannabinoids from industrial hemp, pursuant to K.S.A. 2020 Supp. 2-3909, and amendments thereto. The request for a state and national criminal history record check shall include the following:~~

~~(A) The individual's fingerprints; and~~

~~(B) a copy of a completed and signed statement furnished by the hemp processor that includes:~~

~~(i) A waiver permitting the hemp processor to request and receive a criminal history record check for the purpose of determining the individual's qualification and fitness to process industrial hemp;~~

~~(ii) the name, address and date of birth of the individual as it appears on a valid identification document;~~

~~(iii) a disclosure of whether or not the individual has ever been convicted of or is the subject of pending charges for a criminal offense and, if convicted, a description of the crime and the result of the conviction; and~~

~~(iv) a notice to the individual that they are entitled to obtain a copy of the criminal history record check to challenge the accuracy and completeness of any information contained in any such report before any final determination is made by the hemp processor.~~

~~(2) A registered hemp processor, or an applicant to become a registered hemp processor, shall require such individual to be fingerprinted and 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. Such hemp processor or applicant shall use the fingerprints to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdictions or countries. The hemp processor may use the information obtained from the fingerprints and such state and national criminal history record checks in the official determination of the qualifications and fitness of the individual to process industrial hemp.~~

(h) (1) The state fire marshal shall require all individuals applying for a hemp processor registration who seek to engage in the extraction of cannabinoids from industrial hemp, including the disposal of such cannabinoids, pursuant to the commercial industrial hemp act to be fingerprinted and submit to a state and national criminal history record check. The state fire marshal may require individuals who are current employees or applying to be employees of a hemp processor to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in Kansas or any other jurisdiction. The state fire marshal is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state fire marshal may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the individual and for making an official determination of the qualification and fitness of the individual to process industrial hemp pursuant to this act and rules and regulations promulgated hereunder. Disclosure or use of any *criminal history* information ~~received by the hemp processor~~ for any purpose other than the purposes provided for in the commercial industrial hemp act shall be a class A nonperson misdemeanor *and shall constitute grounds for removal from office or termination of employment*.

~~(3) Local and state law enforcement officers and agencies shall assist the hemp processor in taking and processing such individual's fingerprints as authorized by this section.~~

~~(4) The Kansas bureau of investigation shall release all records of the individual's adult convictions and adult convictions from another state, ju-~~

~~risdiction or country, to the hemp processor to make a final determination of the qualification of such individual to process industrial hemp.~~

~~(5)~~*(2)* An individual who has been convicted of a felony violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or a substantially similar offense in another jurisdiction, within the immediately preceding 10 years, shall be disqualified from processing industrial hemp under this section.

~~(6) A hemp processor shall be solely responsible for making any determination that an individual's criminal history record shows that such individual has been convicted of a crime that bears upon the fitness of such individual to extract cannabinoids from industrial hemp. This section does not require the Kansas bureau of investigation to make such a determination on behalf of any hemp processor.~~

~~(7) The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.~~

~~(8) A registered hemp processor, or an applicant to become a registered hemp processor, shall pay the costs of fingerprinting and the state and national criminal history record checks for individuals seeking employment under such hemp processor or applicant.~~

~~(k) The secretary~~

(3) The state fire marshal may deny registration to any individual who has violated subsection (g) or any other provision of the commercial industrial hemp act.

(4) The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.

(5) The individual seeking authorization to extract or dispose of cannabinoids from industrial hemp pursuant to this section shall pay the costs of fingerprinting and the state and national criminal history record check.

(6) Local and state law enforcement officers and agencies shall assist in taking and processing an individual's fingerprints as authorized by this section.

(i) (1) The state fire marshal shall promulgate rules and regulations to carry out the provisions of this section*, including, but not limited to, rules and regulations on:*

(A) The denial, conditioning, renewal or revocation of registration;

(B) the creation of multiple classes of registrations based upon the scope of hemp processing activities of an applicant;

(C) construction and safety standards for processing facilities;

(D) security measures;

(E) inventory control;

(F) maintenance of records;

(G) access to and inspection of records and processing facilities by the state fire marshal and law enforcement agencies;

(H) the collection and disposal of any cannabinoids extracted during the processing of industrial hemp that cannot be lawfully sold in this state; and

(I) the transportation of industrial hemp or hemp products.

(2) The state fire marshal may grant an exemption from the application of a specific requirement of rules and regulations promulgated under paragraph (1), unless the state fire marshal determines that the condition, structure or activity that is or would be in noncompliance with such requirement would constitute a distinct hazard to life or property. Any such exemption shall be granted only upon written request of a registrant or applicant for registration that clearly demonstrates that enforcement of a specific requirement of a rule and regulation will cause unnecessary hardship as determined by the state fire marshal.

(j) The Kansas department of agriculture and the state fire marshal shall coordinate with one another, including providing any requested information from the other, regarding industrial hemp licensees, hemp processors and hemp processor applicants necessary for the enforcement of any laws or rules and regulations relating to industrial hemp.

~~(l)~~*(k)* This section shall be a part of and supplemental to the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et seq., and amendments thereto.

Sec. 6. K.S.A. 2020 Supp. 2-3908 is hereby amended to read as follows: 2-3908. (a) (1) It shall be unlawful for any of the following hemp products to be manufactured, marketed, sold or distributed by any person in the state of Kansas:

(A) Cigarettes containing industrial hemp;

(B) cigars containing industrial hemp;

(C) chew, dip or other smokeless material containing industrial hemp;

(D) teas containing industrial hemp;

(E) liquids, solids or gases containing industrial hemp for use in vaporizing devices; and

(F) any other hemp product intended for human or animal consumption containing any ingredient derived from industrial hemp that is prohibited pursuant to the Kansas food, drug and cosmetic act, K.S.A. 65-636 et seq., and amendments thereto, and the commercial feeding stuffs act, K.S.A. 2-1001 et seq., and amendments thereto. This subparagraph shall not otherwise prohibit the use of any such ingredient, including cannabidiol oil, in such hemp products.

(2) As used in this subsection:

(A) "Human or animal consumption" means:

(i) Ingested orally; or

(ii) applied by any means such that an ingredient derived from industrial hemp enters the human or animal body.

(B) "Intended for human or animal consumption" means:

(i) Designed by the manufacturer for human or animal consumption;

(ii) marketed for human or animal consumption; or

(iii) distributed with the intent that it be used for human or animal consumption.

(b) *(1)* It shall be unlawful for any of the following hemp products to be marketed, sold or distributed to any person in Kansas who is not registered as a hemp processor pursuant to K.S.A. 2020 Supp. 2-3907, and amendments thereto, or who does not possess a license by the Kansas department of agriculture under any commercial plan established pursuant to K.S.A. 2020 Supp. 2-3906, and amendments thereto, or the research program established pursuant to K.S.A. 2020 Supp. 2-3902, and amendments thereto:

~~(1)~~ *(A)* Industrial hemp buds;

~~(2)~~ *(B)* ground industrial hemp floral material;~~ or~~

~~(3)~~ *(C)* ground industrial hemp leaf material*; or*

(D) any extract from industrial hemp with a delta-9 tetrahydrocannabinol concentration greater than 0.3% that will be further processed.

(2) No license or registration shall be required for the transport of hemp products described in paragraph (1) if such products are transported between hemp producers and hemp processors or between more than one hemp processor. Any such transportation of hemp products shall be subject to rules and regulations promulgated by the state fire marshal pursuant to this act.

(c) (1) Upon a first conviction for a violation of this section, a person shall be guilty of a class A nonperson misdemeanor.

(2) On a second or subsequent conviction for a violation of this section, a person shall be guilty of a severity level 9, nonperson felony.

(d) Nothing in this section shall prohibit:

(1) The use of any hemp product for research purposes by a state educational institution or affiliated entity; or

(2) the production, use or sale of any hemp product that is otherwise not prohibited by state or federal law.

(e) This section shall be a part of and supplemental to the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et seq., and amendments thereto.

Sec. 7. K.S.A. 2020 Supp. 2-3901, 2-3903, 2-3907 and 2-3908 are hereby repealed.

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

Approved April 21, 2021.

Published in the *Kansas Register* April 29, 2021.

CHAPTER 77

House Substitute for SENATE BILL No. 26

AN ACT concerning motor carriers; relating to the state corporation commission's regulation of motor carriers; updating and eliminating certain procedures for certificates of convenience and necessity and certificates of public service; revising certain laws to conform to federal regulation; amending K.S.A. 66-1,105, 66-1,108, 66-1,110, 66-1,111, 66-1,112, 66-1,112g, 66-1,112j, 66-1,114, 66-1,114b, 66-1,116, 66-1,119 and 66-1,141 and repealing the existing sections; also repealing K.S.A. 66-1,118, 66-1,119a, 66-1,140 and 66-1,142d.

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

Section 1. K.S.A. 66-1,105 is hereby amended to read as follows: 66-1,105. The orders and decisions of the commission on the matters covered by this act shall be made in writing and copies of such decisions shall be served on motor carriers by *electronic mail if authorized by the motor carrier or* first class mail, except that orders and decisions potentially resulting in a negative impact upon any motor carrier's authority and initial orders in show cause proceedings shall be served by certified mail, return receipt requested. *A motor carrier may, at any time, revoke the authorization to receive the orders and decisions through electronic mail provided by this section, and any orders or decisions of the commission after the date of the revocation shall be served by mail.* Every order and decision of the commission on matters covered by this act shall become operative and effective within 30 days after service, and the motor carrier shall carry the provisions of the order into effect, unless the order is enjoined or set aside by a court of proper jurisdiction.

Sec. 2. K.S.A. 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) ~~"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;~~

~~(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;

~~(d)~~*(c)* "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;

~~(e)~~*(d)* "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

~~(f)~~*(e)* "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. 3. K.S.A. 66-1,110 is hereby amended to read as follows: 66-1,110. All "public motor carriers of property, of household goods or of passengers" as defined in this act are hereby declared to be common carriers within the meaning of the public utility laws of this state, and are hereby declared to be affected with a public interest and subject to this act, *to the extent not preempted by federal law,* and to the laws of this state, including the regulation of all rates and charges now in force or that hereafter may be enacted, pertaining to public utilities and common carriers as far as applicable, and not in conflict.

Sec. 4. K.S.A. 66-1,111 is hereby amended to read as follows: 66-1,111. No public motor carrier of property or passengers or private motor carrier of property ~~or local cartage carrier~~ shall operate any motor vehicle for the transportation of either persons or property on any public highway in this state except in accordance with the provisions of this act, and amendments thereto, and other applicable laws.

Sec. 5. K.S.A. 66-1,112 is hereby amended to read as follows: 66-1,112. (a) The commission is hereby vested with power and authority and it shall be its duty to license, supervise and regulate every public motor carrier of property, of household goods or of passengers in this state, to the full extent not preempted by federal law, including fixing and approving reasonable maximum or minimum, or maximum and minimum rates, fares, charges, classifications and rules and regulations pertaining to the transportation of household goods or passengers as defined in 49 U.S.C. § 13102. The commission shall prescribe rules and regulations related to uniform cargo liability, uniform bills of lading, uniform cargo credit and antitrust immunity for joint-line rates and routes, classifications and mileage guides. The commission is hereby vested with power and authority and it shall be its duty to license, supervise and regulate every public motor carrier transporting property, household goods or passengers in this state, and to regulate and supervise the accounts, schedules, ser-

vice and method of operation of same; ~~to prescribe a uniform system and classification of accounts to be used; to require the filing of annual and other reports and any other data;~~ and to supervise and regulate public motor carriers transporting property, household goods or passengers in all matters affecting the relationship between such public motor carriers of property, of household goods or of passengers and the traveling and shipping public.

(b) The commission shall have power and authority, by general order or otherwise, to prescribe reasonable and necessary rules and regulations governing all such motor carriers. All laws relating to the powers, duties, authority and jurisdiction of the corporation commission over common carriers are hereby made applicable to all such motor carriers except as herein otherwise specifically provided.

(c) In order to insure nondiscriminatory, nonpreferential and just and reasonable rates, joint rates, fares, tolls, charges and exactions for all shippers, the commission shall establish rate-making procedures for all ~~motor common carriers~~ *holders of a certificate of convenience and necessity*, including collective rate-making procedures for joint consideration, initiation and establishment of such rates and charges for transporting household goods or passengers as defined in 49 U.S.C. § 13102. The commission shall prescribe reasonable rules and regulations related to uniform cargo liability, uniform bills of lading, uniform cargo credit and antitrust immunity for joint-line rates and routes, classifications and mileage guides. Joint and collective rate-making shall be limited to:

(1) That which is necessary to formulate one or more joint rates as such term is used in K.S.A. 66-117, and amendments thereto;

(2) general rate increases or decreases if the tariff proposal gives shippers, under procedures approved by the commission, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff is filed with the commission and if discussion of such increases or decreases is related to industry average carrier costs and does not include discussion related exclusively to individual markets or particular single-line rates;

~~(3) changes in commodity classifications;~~

~~(4)~~ changes in tariff structures if discussion of such changes is related to industry average carrier costs and does not include discussion related exclusively to individual markets or particular single-line rates; and

~~(5)~~*(4)* publishing of tariffs, filing of independent actions for individual members and changes in rules and regulations ~~which~~ *that* are of at least substantially general application throughout the area ~~in which~~ *where* such changes will apply.

(d) The provisions of K.S.A. 50-101 et seq., and amendments thereto, shall not apply to the activities and procedures of persons, groups, agen-

cies, bureaus or other entities where such activities and procedures have received approval by order of the commission under this statute.

Sec. 6. K.S.A. 66-1,112g is hereby amended to read as follows: 66-1,112g. The commission shall issue permits to private motor carriers of property and require ~~the filing of annual and other reports, and~~ such additional data as may be required by the commission in carrying out the provisions of this act. The commission may adopt rules and regulations relating to private motor carriers of property.

Sec. 7. K.S.A. 66-1,112j is hereby amended to read as follows: 66-1,112j. Upon failure to comply with the provisions of the motor carrier law or other laws of the state relating to motor carriers, or upon failure to comply with motor carrier rules and regulations of the commission, or ~~rules and regulations of the state property valuation department,~~ the department of revenue relating to taxation of motor carriers, ~~or the port of entry board relating to motor carriers,~~ the commission may suspend or completely revoke, at any time, any permit, certificate or interstate license after notice and an opportunity to be heard has been given to the grantee in accordance with the provisions of the Kansas administrative procedure act.

Sec. 8. K.S.A. 66-1,114 is hereby amended to read as follows: 66-1,114. (a) Except as hereinafter provided, it shall be unlawful for any public motor carrier to operate as a carrier of household goods or passengers in intrastate commerce within this state without first having obtained from the commission a certificate of convenience and necessity to transport household goods or passengers. ~~The commission, upon the filing of an application for a certificate, shall fix a time and place for hearing thereon, which shall be not less than 20 and not more than 60 days after the filing and shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Notices of hearings shall be published electronically on the commission's web site within three days of the filing of the application. Any person may offer testimony at such hearing~~ *A motor carrier denied a certificate shall be afforded the opportunity of a hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. If such hearing is requested, the hearing shall be held within 10 business days of the request*.

(b) If the commission finds that the proposed service or any part thereof is proposed to be performed by the applicant, that the applicant is fit, willing and able to perform such service~~,~~ and that the applicant is in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws, the commission shall issue the certificate of convenience and necessity to transport household goods and passengers, except that if the commission

finds that the proposed service is inconsistent with the public convenience and necessity, the commission shall not issue the certificate.

(c) Within 18 months of the issuance to a public motor carrier of a certificate of convenience and necessity to transport household goods or passengers, the commission shall verify that such public motor carrier continues to be fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability ~~and cargo~~ insurance requirements and other applicable state laws.

Sec. 9. K.S.A. 66-1,114b is hereby amended to read as follows: 66-1,114b. (a) Except as hereinafter provided, it shall be unlawful for any public motor carrier to operate as a carrier of property other than household goods or ~~as a carrier of~~ passengers in intrastate commerce within this state without first having obtained from the commission a certificate of public service to transport property other than household goods or to transport passengers.

(b) The commission, upon the filing of an application for a certificate of public service, shall ascertain that the motor carrier is fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability ~~and cargo~~ insurance requirements and other applicable state laws. Once a motor carrier submits a complete application demonstrating that the motor carrier is fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability ~~and cargo~~ insurance requirements and other applicable state laws, the commission may issue that motor carrier ~~a 30-day interim certificate of public service, signed and approved by the commission's executive director. A list of applications received shall be published electronically on the commission's web site, and shall state whether an interim certificate has been granted to the applicant. Any person who opposes the grant of a certificate of public service to a motor carrier applicant shall have 30 days from the commission's grant of an interim certificate to file a written protest with the commission. If no protest against a motor carrier applicant is filed before the expiration of the 30-day interim certificate, the commission may issue the motor carrier applicant a permanent certificate, signed and approved by the commission's executive director. If the commission finds that an applicant is not fit, knowledgeable, or in compliance with the commission's safety rules and regulations, liability and cargo insurance requirements and other applicable state laws, an order shall be issued denying the application. If the commission deems it necessary, a hearing may be held on any application, and any commission decision on such application shall be issued by order~~ *certificate of public service. A motor carrier denied a certificate shall be afforded the opportunity of a hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. If such a hearing is requested, the hearing shall be held within 10 business days of the request*.

(c) Motor carriers holding a certificate of convenience and necessity to transport property other than household goods shall be considered as holding a certificate of public service to transport that property originally granted by the commission as a public motor carrier of property. Pursuant to federal law those motor carriers may transport that property originally granted by the commission statewide.

(d) Within 18 months of the issuance to a public motor carrier of a certificate of public service to transport property other than household goods or passengers, the commission shall verify that such public motor carrier continues to be fit, knowledgeable and in compliance with the commission's safety rules and regulations, liability ~~and cargo~~ insurance requirements and other applicable state laws.

Sec. 10. K.S.A. 66-1,116 is hereby amended to read as follows: 66-1,116. (a) It shall be unlawful for a public motor carrier of property, of household goods or of passengers to operate in interstate commerce regulated by the relevant federal agency without registering its motor vehicles in its base state pursuant to federal statutes in order to operate in Kansas.

(b) It shall be unlawful for a public motor carrier of property, of household goods or of passengers or a private motor carrier of property ~~which~~ *that* is exempt from federal regulations, to operate in interstate commerce within this state, without having furnished the commission, in writing, such information as the commission may request ~~covering observance of state police regulations~~ and the payments of the fees. This act shall apply to all persons and motor vehicles engaged in interstate commerce only to the extent permitted by the constitution and laws of the United States.

Sec. 11. K.S.A. 66-1,119 is hereby amended to read as follows: 66-1,119. ~~No public motor carrier authorized by this act to operate shall change, abandon or discontinue any service established by this act or operations under any certificate of convenience and necessity issued for carriers of household goods or passengers without consent of the commission after written application.~~ Failure of any motor carrier to annually renew its authority, certificate or permit in a timely manner shall result in a termination of that motor carrier's authority by operation of law. ~~A list of applications for changes to, abandonments of or discontinuances of any authority, as well as any abandonments of authority by operation of law for failure to renew, shall be published on the commission's web site.~~

Sec. 12. K.S.A. 66-1,141 is hereby amended to read as follows: 66-1,141. The provisions of K.S.A. 66-1,138~~,~~ *and* 66-1,139 ~~and 66-1,140~~*, and amendments thereto,* shall be ~~and shall be construed as supplemental to and as~~ a part of *and supplemental to* article 1 of chapter 66 of the Kansas Statutes Annotated, and ~~any acts amendatory thereof or supplemental~~ *amendments* thereto.

Sec. 13. K.S.A. 66-1,105, 66-1,108, 66-1,110, 66-1,111, 66-1,112, 66-1,112g, 66-1,112j, 66-1,114, 66-1,114b, 66-1,116, 66-1,118, 66-1,119, 66-1,119a, 66-1,140, 66-1,141 and 66-1,142d 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 21, 2021.

CHAPTER 78

SENATE BILL No. 178

AN ACT concerning financial institutions; relating to the state banking code; trust companies; providing for charter conversions; amending K.S.A. 2020 Supp. 9-803, 9-808, 9-809 and 9-1717 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 9-803 is hereby amended to read as follows: 9-803. (a) Any bank *or trust company* with articles of incorporation that have lapsed, or hereafter shall lapse, may renew and extend the bank's *corporate existence or the trust company's* corporate existence in the manner provided by law and upon payment of the requisite fees.

(b) The acts of any bank or trust company with articles of incorporation that have lapsed or terminated by the expiration of time and such bank's or trust company's corporate existence is renewed and extended are hereby legalized and declared to be valid in the same manner and to the same effect as though the banks and trust companies had been duly authorized at all times since their organization.

Sec. 2. K.S.A. 2020 Supp. 9-808 is hereby amended to read as follows: 9-808. (a) Any national bank, federal savings association or federal savings bank organized under the laws of the United States and located in this state may become a state bank *or state trust company* upon the affirmative vote of not less than $^2/_3$ of the institution's outstanding voting stock or voting interests of members. Any national bank, federal savings association or federal savings bank desiring to become a state bank *or state trust company* shall apply to the commissioner for permission to convert to a state bank *or state trust company* and:

(1) Shall submit a transcript of the minutes of the meeting of the institution's stockholders or voting interests of members showing approval of the proposed conversion;

(2) the name selected for the bank shall not be the name of any other *state* bank:

(A) Doing business in the same city or town; or

(B) within a 15-mile radius of the location of the converted institution*;*

(3) the name selected for the trust company shall be different or substantially dissimilar from any other trust company doing business in the state. The name shall be accepted or rejected by the commissioner, although any *state* bank *or state trust company* may request exemption from the commissioner from this paragraph; and

~~(3)~~*(4)* provide any other information required in the application form prescribed by the commissioner.

(b) A federal savings association or federal savings bank operating in a mutual form and seeking to become a stock bank must also convert to a stock form prior to converting to a state bank and shall submit appropriate documentation to the commissioner to show that the appropriate federal regulator has approved such mutual to stock conversion.

(c) Upon receipt of each of the items required by this section the commissioner shall make or cause to be made such investigation as the commissioner deems necessary to determine whether:

(1) All state and federal requirements for a conversion have been satisfied;

(2) the conversion or the financial condition of the bank *or trust company* will not adversely affect the interests of the depositors;

(3) the resulting state bank *or state trust company* will have an adequate capital structure in accordance with K.S.A. 9-901a et seq., and amendments thereto; and

(4) the competence, experience or integrity of the proposed management personnel indicates that approving the conversion would be in the interest of the depositors of the bank *or trust company* and in the interest of the public.

(d) If the commissioner determines each of the matters in subsection (c) favorably, the conversion shall be approved, and the commissioner shall issue a certificate of authority. Upon issuance of a certificate of authority, the articles of incorporation, duly executed as required by the Kansas corporate code, shall be filed with the Kansas secretary of state's office.

(e) In any conversion authorized by this section, the resulting state bank *or state trust company* by operation of law shall continue all trust functions being exercised by the national bank, federal savings association or federal savings bank and shall be substituted for the national bank, federal savings association or federal savings bank and shall have the right to exercise trust or fiduciary powers created by any instrument designating the national bank, federal savings association or federal savings bank, even though such instruments are not yet effective.

(f) In any conversion authorized by this section, the resulting state bank *or state trust company* shall succeed by operation of law without any conveyance or transfer by the act of the national bank, federal savings association or federal savings bank to all the actual or potential assets, real property, tangible personal property, intangible personal property, rights, franchises and interests, including those in a fiduciary capacity of the national bank, federal savings association or federal savings bank and shall be subject to all of the liabilities of the national bank, federal savings association or federal savings bank.

(g) In any conversion authorized by this section the corporate existence of the national bank, federal savings association or federal savings bank shall be continued in the resulting state bank *or state trust company*,

and the resulting state bank *or state trust company* shall be deemed to be the identical corporate entity as the national bank, federal savings association or federal savings bank.

(h) Within a reasonable time after the effective date of the conversion, the resulting state bank *or state trust company* shall divest all assets and liabilities that do not conform to state banking laws and rules and regulations. The length of this transition period shall be determined by the commissioner.

Sec. 3. K.S.A. 2020 Supp. 9-809 is hereby amended to read as follows: 9-809. (a) Any state bank *or state trust company* may convert to a national bank, federal savings and loan association or federal savings bank upon the affirmative vote of not less than $^{2}/_{3}$ of the bank's outstanding voting stock or members.

(b) The state bank *or state trust company* shall provide a copy of the application submitted to the comptroller of currency to the commissioner within 10 days after the date the state bank *or state trust company* applies for approval to convert to a national banking association, federal savings and loan association or federal savings bank from the office of the comptroller of the currency.

(c) The state bank *or state trust company* shall provide to the commissioner written notice of approval by the comptroller of currency to convert to a national bank, federal savings and loan association or federal savings bank within 10 days of receiving the approval.

(d) Within 15 days following the issuance of a charter certificate to the bank *or trust company* by the comptroller, the *state* bank *or state trust company* shall surrender its state certificate of authority or charter and shall certify in writing that notice of the conversion has been given to the Kansas secretary of state's office.

Sec. 4. K.S.A. 2020 Supp. 9-1717 is hereby amended to read as follows: 9-1717. (a) Except with the written consent of the commissioner, no person shall serve as a director, officer or employee of a *state* bank *or state trust company* who has been convicted, or who is hereafter convicted, of any felony or any crime involving dishonesty or a breach of trust.

(b) Any *state* bank ~~which~~ *or state trust company that* willfully violates subsection (a), shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of $1,000 for each day the violation continues.

Sec. 5. K.S.A. 2020 Supp. 9-803, 9-808, 9-809 and 9-1717 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 21, 2021.

CHAPTER 79

Senate Substitute for HOUSE BILL No. 2102

AN ACT concerning agriculture; relating to eggs; clarifying repackaging requirements for retailers; amending K.S.A. 2020 Supp. 2-2507 and 2-2510 and repealing the existing sections.

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

Section 1. K.S.A. 2020 Supp. 2-2507 is hereby amended to read as follows: 2-2507. (a) For the purpose of financing the administration and enforcement of this act, there is hereby levied an inspection fee on all graded eggs sold, offered or exposed for sale or distributed to food purveyors or retailers at the rate of 3.5 mills for each dozen eggs. Such fee shall be paid by the last handler. The inspection fee shall be paid only once on the same quantity of eggs so long as such eggs remain in the eggs' original container *or have been repackaged in accordance with this act and are graded higher than grade B*.

(b) The secretary shall provide inspection fee stamps for sale to persons requesting such stamps. The price of such inspection fee stamps shall include the printing and mailing costs thereof. Such inspection fee stamps shall also serve as a label indicating size and quality in boldface type letters not less than $^3/_8$ inch in height.

(c) Persons desiring to report and pay the inspection fee quarterly, in lieu of using such inspection fee stamps, may make application to the secretary for a permit to pay the inspection fee quarterly, except that in no event shall the inspection fee for any quarter be less than $15. The secretary may grant the permit if the applicant agrees to keep such records and make such report as may be necessary to indicate accurately the quantity of eggs sold on which the inspection fee is due, and if the applicant agrees to grant the secretary permission to verify the statement of quantity of eggs sold. The report shall be filed in the office of the secretary, and shall be due and payable on the first day of October, January, April and July for the previous three months. If the report is not filed and the inspection fee is not paid within 30 days after the due date, or if the report of quantity is false, the secretary may revoke the permit. In addition to the inspection fee there may be assessed against the permit holder a penalty of $5 per day for each day the inspection fee remains unpaid after the 30-day period has expired. Such records of quantity sold shall be held for a period of three years.

(d) If the department finds that the fees specified in this section are providing more funds than necessary for the administration of this act, the department may reduce the above-mentioned fee pursuant to rules and regulations adopted by the secretary. The secretary may increase such fee when necessary, pursuant to rules and regulations adopted by

the secretary, except that such fee shall not exceed the rate specified in subsection (a). The secretary shall remit all moneys received by or for the secretary under article 25 of chapter 2 of *the* Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provision 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 egg fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

Sec. 2. K.S.A. 2020 Supp. 2-2510 is hereby amended to read as follows: 2-2510. (a) A retailer may ~~repack~~ *repackage* eggs*, including dirty eggs or eggs from containers with broken eggs,* located in a store as long as the following requirements are met:

~~(1) Eggs eligible for repacking include dirty eggs or eggs in containers with broken eggs. Eggs that are determined to pose a health risk shall not be eligible for repacking;~~

~~(2) the eggs are not subject to a stop sale order issued by the secretary;~~

~~(3) eggs cannot be repacked more than once;~~

~~(4) repacked~~

(1) The eggs do not pose a health risk;

(2) the eggs are not subject to an embargo issued by the secretary;

(3) the eggs have not previously been repackaged;

(4) the eggs remain subject to inspection and the requirements of this act;

(5) no container with repackaged eggs is labeled with a declaration of enhanced quality or with any claim that did not appear on the original container;

(6) all eggs with undamaged shells are handled and repackaged employing good manufacturing practices under refrigerated conditions in accordance with United States food and drug administration regulations;

(7) all damaged containers and packaging material identified with the United States department of agriculture grade shield are destroyed;

(8) all damaged eggs are properly segregated to prevent human consumption; and

(9) the eggs satisfy the standards of subsection (b) or (c).

(b) Repackaged eggs may be graded as grade B if the following standards are met:

(1) The eggs ~~must~~ meet grade B requirements ~~and shall not be graded higher than grade B, except as provided in subsection (b)~~;

~~(5)~~*(2)* all containers shall have the ~~necessary~~ *following* labeling requirements printed on the outside of the carton ~~which shall include~~:

(A) Grade *B* and size;

(B) a statement saying that the eggs have been ~~repacked~~ *repackaged* by the retailer where the eggs are located;

(C) name and address of the retailer that ~~repacked~~ *repackaged* the eggs;

(D) a statement containing the phrase, "Keep refrigerated at or below 45° Fahrenheit";

(E) the expiration date ~~which shall be~~ *that is* the earliest expiration date of the ~~repacked~~ *repackaged* eggs; and

(F) an inspection fee stamp on the carton indicating that the inspection fee has been paid~~, unless repackaged as described in subsection (b) in a carton that has already been assessed the inspection fee~~; *and*

~~(6)~~*(3)* records must be kept and available for inspection on all eggs ~~repacked~~ *repackaged* by the retailer~~; and~~

~~(7) eggs remain subject to inspection and the requirements of this act~~.

~~(b)~~*(c)* Repackaged eggs may be graded higher than grade B if~~:~~

~~(1)~~ undamaged eggs ~~from damaged containers~~ are placed only into containers *that are already labeled* with the same distributor and packer information, including the name, address, *Kansas egg license number or* United States department of agriculture plant number~~,~~ and packaging code~~;~~

~~(2) no container with repackaged eggs are labeled with a declaration of enhanced quality or with any claim that did not appear on the original container;~~

~~(3) all eggs with undamaged shells are handled and repackaged employing good manufacturing practices under refrigerated conditions in accordance with United States food and drug administration regulations;~~

~~(4) all damaged containers and packaging material identified with the United States department of agriculture grade shield are destroyed; and~~

~~(5) all segregated inedible eggs are properly destroyed to prevent human consumption~~.

~~(c)~~*(d)* Retailers may lose the privilege to ~~repack~~ *repackage* eggs if:

(1) The retailer is found postdating ~~repacked~~ *repackaged* eggs;

(2) the eggs do not meet grade B or higher standards; and

(3) the retailer has violated any other provision of this act.

~~(d)~~*(e)* The provisions of this section shall be *a* part of and supplemental to the Kansas egg law.

Sec. 3. K.S.A. 2020 Supp. 2-2507 and 2-2510 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 21, 2021.

CHAPTER 80

Senate Substitute for HOUSE BILL No. 2074*

AN ACT concerning financial institutions; enacting the technology-enabled fiduciary financial institutions act; relating to requirements, fiduciary powers, duties, functions and limitations for such fiduciary financial institutions; pilot program; prescribing administrative powers and duties for the state banking board and the state bank commissioner; establishing the technology-enabled fiduciary financial institutions development and expansion fund; providing an income and privilege tax credit for technology-enabled fiduciary financial institutions making certain qualified charitable distributions; creating the joint committee on fiduciary financial institutions oversight.

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

Section 1. (a) The provisions of sections 1 through 27, and amendments thereto, shall be known and may be cited as the technology-enabled fiduciary financial institutions act. The technology-enabled fiduciary financial institutions act shall be a part of and supplemental to chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

(b) For purposes of technology-enabled fiduciary financial institutions act:

(1) "Act" means the technology-enabled fiduciary financial institutions act;

(2) "alternative asset" means professionally managed investment assets that are not publicly traded, including, but not limited to, private equity, venture capital, leveraged buyouts, special situations, structured credit, private debt, private real estate funds and natural resources, including any economic or beneficial interest therein;

(3) "alternative asset custody account" means an account created by the owner of an alternative asset that designates a fiduciary financial institution as custodian or agent and into which the client transfers, electronically or otherwise, content, materials, data, information, documents, reports and contracts in any form, including, without limitation, evidence of ownership, subscription agreements, private placement memoranda, limited partnership agreements, operating agreements, financial statements, annual and quarterly reports, capital account statements, tax statements, correspondence from the general partner, manager or investment advisor of the alternative asset, an investment contract as defined in K.S.A. 17-12a102(28)(E), and amendments thereto, and any digital asset as defined in K.S.A. 58-4802, and amendments thereto, whether such information is in hard copy form or a representation of such information that is stored in a computer readable format;

(4) "charitable beneficiaries" means one or more charities, contributions to which are allowable as a deduction pursuant to section 170 of the federal internal revenue code that are designated as beneficiaries of a fidfin trust;

(5) "custodial services" means the safekeeping and management of an alternative asset custody account, including the execution of customer instructions, serving as agent, fund administrative services and overall decision-making and management of the account by a fiduciary financial institution and "custodial services" shall be deemed to involve the exercise of fiduciary and trust powers;

(6) "economic growth zone" means an incorporated community with a population of not more than 5,000 people located within one of the following counties: Allen, Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee, Wallace, Washington, Wichita, Wilson or Woodson;

(7) "excluded fiduciary" means a fiduciary financial institution in its capacity as trustee of a fidfin trust, provided that a fiduciary financial institution shall only be deemed an "excluded fiduciary" to the extent the fiduciary financial institution is excluded from exercising certain powers under the instrument that may be exercised by the trust advisor or other persons designated in the instrument;

(8) "fidfin," "fidfin services" or "fidfin transactions" means the financing of a fidfin trust as provided in section 11, and amendments thereto, including loans, extensions of credit and direct investments;

(9) "fidfin trust" means a trust created to facilitate the delivery of fidfin services by a fiduciary financial institution;

(10) "fiduciary" means a trustee, a trust advisor or a custodian of an alternative asset custody account appointed under an instrument that is acting in a fiduciary capacity for any person, trust or estate;

(11) "instrument" means any document creating a fidfin trust or alternative asset custody account;

(12) (A) "qualified investment" means the purchase or development, in the aggregate, of at least 10,000 square feet of commercial, industrial, multiuse or multifamily real estate in the economic growth zone where the fiduciary financial institution maintains its principal office pursuant to section 9, and amendments thereto, provided that such community has committed to develop the necessary infrastructure to support a "qualified investment." A "qualified investment":

(i) May include, as part of satisfying the square footage requirements, the suitable office space of such fiduciary financial institution, as provided

in section 9, and amendments thereto, if owned by the fiduciary financial institution;

(ii) shall be exempt from the provisions and limitations of K.S.A. 9-1102, and amendments thereto;

(iii) may be retained by a fiduciary financial institution for as long as the fiduciary financial institution operates in this state; and

(iv) may be sold, transferred or otherwise disposed of, including a sale or transfer to an affiliate of the fiduciary financial institution, if the fiduciary financial institution continues to maintain its principal office in an economic growth zone pursuant to section 9, and amendments thereto;

(B) notwithstanding the foregoing provisions, if a fiduciary financial institution leases any portion of a qualified investment made by another fiduciary financial institution as the lessee fiduciary financial institution's suitable office space:

(i) The lessee fiduciary financial institution shall make, or cause to be made, a qualified investment in an economic growth zone other than the economic growth zone where such fiduciary financial institution maintains its principal office;

(ii) the leased square footage shall count toward the square footage requirement applicable to a qualified investment under this section, if such lease has an initial term of not less than five years; and

(iii) the square footage requirement otherwise applicable to a qualified investment of the lessee fiduciary financial institution shall be reduced from 10,000 square feet to 5,000 square feet;

(13) "technology-enabled fiduciary financial institution" or "fiduciary financial institution" means any limited liability company, limited partnership or corporation that:

(A) Is organized to perform any one or more of the activities and services authorized by this act;

(B) has been authorized to conduct business as a fiduciary financial institution under this chapter pursuant to the provisions of section 2, and amendments thereto;

(C) has made, committed to make or caused to be made a qualified investment; and

(D) has committed, in or as a part of the application provided in section 2, and amendments thereto, to conduct any fidfin transactions in accordance with section 11, and amendments thereto, including the distributions required therein;

(14) "trust" means a trust created pursuant to the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto, or created pursuant to the Kansas business trust act of 1961, K.S.A. 17-2707 et seq., and amendments thereto;

(15) "trust advisor" means a fiduciary granted authority by an instrument to exercise, consent, direct, including the power to direct as provided in K.S.A. 58a-808, and amendments thereto, or approve all or any portion of the powers and discretion conferred upon the trustee of a fidfin trust, including the power to invest the assets of a fidfin trust or make or cause distributions to be made from such fidfin trust; and

(16) the definitions of K.S.A. 9-701, and amendments thereto, apply to fiduciary financial institutions except as otherwise provided in this act.

Sec. 2. (a) No fiduciary financial institution shall be organized under the laws of this state nor engage in fidfin transactions, custodial services or trust business in this state until the application for such fiduciary financial institution's organization and the application for certificate of authority have been submitted to and approved by the state banking board. The form for making any such application shall be prescribed by the state banking board and any application made to the state banking board shall contain such information as the state banking board shall require. Except as provided in section 25, and amendments thereto, the state banking board shall not approve any application until the Beneficient conditional charter has been converted to a full charter and the commissioner has completed a regulatory examination.

(b) No bank, trust company or fiduciary financial institution shall engage in fidfin transactions in this state unless an application has been submitted under this act and approved by the state banking board.

(c) The state banking board shall not accept an application for a fiduciary financial institution unless the:

(1) Fiduciary financial institution is organized by at least one person;

(2) name selected for the fiduciary financial institution is different or substantially dissimilar from any other bank, trust company or fiduciary financial institution doing business in this state;

(3) fiduciary financial institutions' articles of organization contain the names and addresses of the fiduciary financial institution's members and the number of units subscribed by each. The articles of organization may contain such other provisions as are consistent with the Kansas revised limited liability company act, Kansas revised uniform limited partnership act or Kansas general corporation code;

(4) fiduciary financial institution has made, committed to make or caused to be made a qualified investment as defined in section 1, and amendments thereto;

(5) fiduciary financial institution has committed to structure any fidfin transactions to ensure that qualified charitable distributions, as defined in section 28, and amendments thereto, are made each calendar year that the fiduciary financial institution conducts fidfin transactions; and

(6) fiduciary financial institution has consulted or agrees to consult

with the department of commerce regarding the economic growth zones to be selected for purposes of paragraphs (4) and (5).

(d) The state banking board may deny the application if the state banking board makes an unfavorable determination with regard to the:

(1) Financial standing, general business experience and character of the organizers; or

(2) character, qualifications and experience of the officers of the proposed fiduciary financial institution.

(e) The state banking board shall not make membership in any federal government agency a condition precedent to the granting of the authority to do business.

(f) The state banking board may require fingerprinting of any officer, director, organizer or any other person of the proposed fiduciary financial institution related to the application deemed necessary by the state banking board. Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdictions. The state banking board may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons associated with the applicant fiduciary financial institution to be issued a charter. Whenever the state banking board requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(g) The state banking board or the commissioner shall notify a fiduciary financial institution of the approval or disapproval of an application. Any final action of the state banking board approving or disapproving an application shall be subject to review in accordance with the Kansas judicial review act.

(h) (1) In the event such application is approved, the fiduciary financial institution shall be issued a charter upon compliance with any requirements of this act and upon demonstrating to the satisfaction of the commissioner that an applicable distribution has been made. For purposes of this section, "applicable distribution" means a distribution of cash, beneficial interests or other assets having an aggregate value equal to the greater of:

(A) 2.5% of the aggregate financing balances to be held by the fiduciary financial institution immediately upon issuance of the fiduciary financial institution's charter, as reflected in the fiduciary financial institution's application filed pursuant to this section; or

(B) $5,000,000 in accordance with subsection (i), except that if a fiduciary financial institution is chartered to provide only custodial services, the applicable distribution amount shall be $500,000.

(2) If the amount provided in paragraph (1)(B) exceeds the amount provided in paragraph (1)(A), the fiduciary financial institution shall be entitled to a credit against the amount distributable under section 11(e), and amendments thereto, in an amount equal to such excess.

(i) The applicable distribution required under subsection (h) shall be distributed as follows:

(1) (A) To the department of commerce:

Applicable distribution amount	Percentage to department of commerce
$0 to $500,000	90%
$500,001 to $1,000,000	50%
Above $1,000,000	10%

(B) the amounts specified in subparagraph (A) shall apply to fiduciary financial institutions chartered prior to January 1, 2023. For fiduciary financial institutions chartered after such date, the department of commerce may publish one or more schedules in the Kansas register as the department of commerce deems reasonably necessary to facilitate economic growth and development in one or more economic growth zones. No such schedule shall be effective until after its publication in the Kansas register. The department of commerce shall timely submit to the commissioner any schedule published under this section. The commissioner shall provide a copy of such schedule to any applicant for a fiduciary financial institution charter prior to the issuance of such charter. A fiduciary financial institution shall be subject to the schedule in existence on the date such fiduciary financial institution's charter is issued and shall not be subject to any schedules published after such date;

(C) the department of commerce shall remit all distributions 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 technology-enabled fiduciary financial institutions development and expansion fund established in section 24, and amendments thereto; and

(2) the balance of the applicable distribution required under subsection (h) shall be distributed to one or more qualified charities as defined in section 28, and amendments thereto, as shall be selected by the fiduciary financial institution. Nothing in this section shall preclude a distribution to one or more qualified charities in excess of the amounts provided in this section. An economic growth zone or qualified charity shall have no obligation to repay any distributions received under this act or to make any contributions to a fiduciary financial institution.

Sec. 3. (a) Every fiduciary financial institution shall be assessed an initial fee of $500,000 to be remitted concurrently with the issuance of such fiduciary financial institution's charter. The expense of every annu-

al regular fiduciary financial institution examination, together with the expense of administering fiduciary financial institution laws, including salaries, travel expenses, third-party fees for consultants or other entities necessary to assist the commissioner, supplies and equipment, shall be paid by the fiduciary financial institutions of this state. Prior to the beginning of each fiscal year, the commissioner shall make an estimate of the trust expenses to be incurred by the office of the state bank commissioner during such fiscal year in an amount not less than $1,000,000. The commissioner shall allocate and assess each fiduciary financial institution in this state on the basis of such fiduciary financial institution's total fidfin transaction balances, consisting of the aggregate fidfin financing balances of the fiduciary financial institution reflected in the last December 31 report filed with the commissioner pursuant to K.S.A. 9-1704, and amendments thereto. If a fiduciary financial institution has no fidfin transaction balances, but such fiduciary financial institution otherwise providing custodial services or trust services, the commissioner shall allocate and assess such fiduciary financial institution in a manner the commissioner deems reasonable and appropriate. A fiduciary financial institution that has no fidfin transaction balances and no alternative asset custody accounts reflected in the last December 31 report filed with the commissioner may be granted inactive status by the commissioner. The annual assessment shall not exceed $10,000 for such an inactive fiduciary financial institution. The annual fee shall be first assessed for the year immediately following the year the fiduciary financial institution received a certificate of authority to engage in fidfin transactions, custodial services and trust business and for each year thereafter.

(b) (1) A statement of each assessment made under the provisions of subsection (a) shall be sent by the commissioner on December 1 or the next business day thereafter to each fiduciary financial institution. The assessment may be collected by the commissioner as needed and in such installment periods as the commissioner deems appropriate, but not more frequently than monthly. When the commissioner issues an invoice to collect the assessment, payment shall be due within 15 business days of the date of such invoice. The commissioner may impose a penalty upon any fiduciary financial institution that fails to pay its annual assessment when it is more than 15 business days past due. The penalty shall be assessed in the amount of $50 for each day the assessment is past due.

(2) The commissioner shall remit all moneys received from such fees and assessments to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit 75% of each remittance to the bank commissioner fee fund and 25% to the technology-enabled fiduciary financial institutions

development and expansion fund established in section 24, and amendments thereto.

Sec. 4. (a) To the extent a conflict does not exist between this act and chapter 9 of the Kansas Statutes Annotated, and amendments thereto, the provisions of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall apply to a fiduciary financial institution in the same manner as it applies to a trust company except that references in chapter 9 to:

(1) "Capital stock" includes membership capital and partner capital;

(2) "stock" includes membership units and partnership interests;

(3) "common stock" includes common units and common interests;

(4) "preferred stock" includes preferred units and preferred interests;

(5) "stockholders" includes members and partners;

(6) "articles of incorporation" includes articles of organization and articles of limited partnership;

(7) "incorporation" includes organization;

(8) "corporation" includes company and partnership;

(9) "corporate" includes company and partnership;

(10) "trust business" and "business of a trust company" includes fidfin and fiduciary financial institution business; and

(11) K.S.A. 9-901a(a), and amendments thereto, means section 5, and amendments thereto.

(b) If any conflict exists between any provisions of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, and this act, the provisions of this act shall control.

Sec. 5. (a) For purposes of this section, "capital" means the total of the aggregate par value of a fiduciary financial institution's outstanding membership units, its surplus and its undivided profits.

(b) (1) The required capital for fiduciary financial institutions shall at all times be $250,000 when:

(A) The fiduciary financial institution does not accept deposits, other than alternative asset custody accounts;

(B) the fiduciary financial institution maintains no third-party debt except debts owed to the members of the fiduciary financial institution or affiliates of the fiduciary financial institution; and

(C) the fiduciary financial institution has secured an agreement from its members whereby such members agree to contribute additional capital to the fiduciary financial institution if needed to ensure the safety and soundness of the fiduciary financial institution. A fiduciary financial institution that fails to satisfy the foregoing requirements shall be subject to the capitalization requirements of K.S.A. 9-901a, and amendments thereto, applicable to trust companies.

(2) The capital of a fiduciary financial institution shall be divided, with

60% of the amount as the aggregate par value of outstanding membership units, 30% as surplus and 10% as undivided profits.

Sec. 6. (a) The business of any fiduciary financial institution shall be managed and controlled by such fiduciary financial institution'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 members at any regular annual meeting to be held on the date specified in the fiduciary financial institution's operating agreement or bylaws. At least one director must be a resident of this state.

(c) If, for any reason, the meeting cannot be held on the date specified in the operating agreement or 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 members representing $^2/_3$ of the membership units.

(d) In all cases, at least 10 days' notice of the date for the annual meeting shall be given to the members.

(e) The annual meeting of a fiduciary financial institution shall be held in this state. Any other meetings of the fiduciary financial institution's management or directors, including the meeting required pursuant to K.S.A. 9-1116, and amendments thereto, may be held in any location determined by the fiduciary financial institution's officers or directors.

(f) Any newly created directorship shall be approved and elected by the members in the manner provided in the fiduciary financial institution's organizational documents or, in the absence of such provisions, in the manner provided by the Kansas revised limited liability company act, Kansas revised uniform limited partnership act or Kansas general corporation code. A special meeting of the members may be convened at any time for such purpose.

(g) Any vacancy in the board of directors may be filled by the board of directors in the manner provided in the fiduciary financial institution's organizational documents or, in the absence of such provisions, in the manner provided by the Kansas revised limited liability company act, Kansas revised uniform limited partnership act or Kansas general corporation code.

(h) Within 15 days after the annual meeting, the president or cashier of each fiduciary financial institution shall submit to the commissioner a certified list of members and the number of units owned by each member. This list of members shall be kept and maintained in the fiduciary financial institution's main office and shall be subject to inspection by all members during the business hours of the fiduciary financial institution. The commissioner may require the list to be filed by electronic means.

(i) Each director shall take and subscribe an oath to administer the affairs of such fiduciary financial institution diligently and honestly and to not knowingly or willfully permit any of the laws relating to fiduciary financial institutions to be violated. A copy of each oath shall be retained by the fiduciary financial institution, in the fiduciary financial institution'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 by electronic means.

(j) Every fiduciary financial institution shall notify the commissioner of any change in the chief executive officer, president or directors, including in such fiduciary financial institution's report a statement of the past and current business and professional affiliations of the new chief executive officer, president or directors.

Sec. 7. (a) A fiduciary financial institution shall make a report to the commissioner pursuant to the provisions of K.S.A. 9-1704, and amendments thereto. In making such a report, a fiduciary financial institution shall:

(1) Report the fiduciary financial institution's fidfin transactions pursuant to generally accepted accounting principles; and

(2) calculate such fiduciary financial institution's capital solvency by including the value of all tangible and intangible assets owned by the fiduciary financial institution, regardless of use.

(b) In evaluating the safety and soundness of a fiduciary financial institution, the state banking board and the commissioner shall:

(1) Consider that the collateral or underlying assets associated with fidfin transactions are volatile in nature and that such volatility has been accepted by the members and customers of the fiduciary financial institution;

(2) respect the form, treatment and character of fidfin transactions under the laws of this state notwithstanding the treatment or characterization of such transactions under generally accepted accounting principles or for tax purposes;

(3) evaluate the soundness of a fiduciary financial institution based on whether available capital, including the agreement of the fiduciary financial institution's members to contribute capital pursuant to section 5, and amendments thereto, exceeds the fiduciary financial institution's obligations, determined in accordance with generally accepted accounting principles; and

(4) evaluate the safety of a fiduciary financial institution based on the background and qualifications of such fiduciary financial institution's executive officers and directors and the internal controls and audit processes enacted by the fiduciary financial institution to ensure adherence to its policies and procedures.

(c) Profitability shall not be a consideration in evaluating the safety and soundness of a fiduciary financial institution if sufficient capital and

equity exist in the business, including, without limitation, membership capital, surplus, undivided profits and commitments by members to contribute additional capital to the fiduciary financial institution pursuant to section 5, and amendments thereto, to satisfy the fiduciary financial institution's obligations.

Sec. 8. A fiduciary financial institution may use in such fiduciary financial institution's business name or advertising the words "fiduciary financial institution" or any similar term or phrase, but may not use in such institution's name the words "bank" or "trust company" without reference to fidfin trusts or any other term that tends to imply that such fiduciary financial institution is a bank or trust company, unless the commissioner has approved the use in writing after finding that the use will not be misleading. While a fiduciary financial institution is a trust company for purposes of federal and state law and rules and regulations and possesses trust powers under this act, it is the intent of this section to impose restrictions on the name of such institution to avoid confusion with other banks and trust companies that operate in this state but that are not fiduciary financial institutions. The naming restrictions imposed under this section shall in no way reduce or eliminate the trust powers granted to a fiduciary financial institution as a trust company under this act. Other than indicating that the fiduciary financial institution is headquartered and chartered in Kansas, no fiduciary financial institution's name or advertising shall infer or imply that such fiduciary financial institution is endorsed by, an affiliate of or otherwise connected with the government of the state of Kansas.

Sec. 9. (a) A fiduciary financial institution shall:

(1) Maintain suitable office space in an economic growth zone, as defined in section 1, and amendments thereto, for fidfin transactions, custodial services and trust business and for the storage of, and access to, fiduciary financial institution records;

(2) employ, engage or contract with at least three employees to provide services for the fiduciary financial institution in Kansas related to the powers of the fiduciary financial institution and to facilitate the examinations required by this act; and

(3) perform fidfin transactions, custodial services and trust business in Kansas, and a fiduciary financial institution may also engage in fidfin transactions, custodial services and trust business in other states to the extent permitted by applicable law.

(b) As used in this section, the term "suitable office space" means at least 2,000 square feet of class A office space located in an economic growth zone selected by the fiduciary financial institution that the fiduciary financial institution utilizes as such fiduciary financial institution's principal office.

(c) The fiduciary financial institution's principal office shall:

(1) Be in premises distinct and divided from the office space of any other entity;

(2) be located in an economic growth zone selected by the fiduciary financial institution;

(3) have the name, charter and certificate of authority of the fiduciary financial institution prominently displayed;

(4) have access to premises in or adjacent to the office space sufficient to facilitate on-site examinations by the state banking board or commissioner;

(5) to the extent the fiduciary financial institution maintains hard copies of any documents required to be maintained under this chapter, have a secure fireproof file cabinet that contains all such hard copies; and

(6) to the extent the fiduciary financial institution maintains any record electronically, have a secure computer terminal or other secure electronic device that provides access to such records, including account information, as necessary to facilitate an efficient and effective examination.

(d) Fidfin transactions, custodial services and trust business is deemed to have been performed in Kansas for purposes of this section if fidfin transaction or custodial service agreements are approved or signed in this state on behalf of the fiduciary financial institution and at least three of the following acts are performed by a technology platform wholly or partly operated in this state:

(1) Annual account reviews;

(2) annual investment reviews;

(3) trust or custodial accounting;

(4) account correspondence;

(5) reviewing and signing trust account or custodial account tax returns; or

(6) distributing account statements.

Sec. 10. (a) Any fiduciary financial institution is hereby authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, the following powers:

(1) To engage in fidfin transactions in accordance with section 11, and amendments thereto;

(2) to receive, retain and manage alternative asset custody accounts in accordance with section 13, and amendments thereto; and

(3) to engage in trust business as defined in K.S.A. 9-701, and amendments thereto.

Sec. 11. (a) If authorized by the terms of an instrument as such term is defined in section 1, and amendments thereto, a fiduciary financial institution may:

(1) Extend financing or extensions of credit to a fidfin trust when:

(A) The fiduciary financial institution serves as trustee of the borrowing fidfin trust;

(B) the financing is collateralized or supported by the assets of such fidfin trust;

(C) the financing is nonrecourse as to the fiduciary financial institution's customer and is not otherwise guaranteed by such customer;

(D) the fiduciary financial institution agrees, in the applicable financing agreement or other written document, that the fiduciary financial institution is providing financing in a fiduciary capacity;

(E) the fiduciary financial institution agrees that such fiduciary financial institution will manage the collateral or assets underlying the financing in a fiduciary capacity; and

(2) acquire or invest in an alternative asset on behalf of and through a fidfin trust.

(b) The financing of a fidfin trust pursuant to subsection (a)(1) and (a)(2) shall be considered a fiduciary finance or fidfin transaction.

(c) If authorized or directed by the terms of an instrument, no fiduciary financial institution shall be deemed to have a conflict of interest, to have violated a duty to a fidfin trust or the beneficiaries thereof or to have engaged in self-dealing by entering into a fidfin transaction.

(d) The combination rules of K.S.A. 9-1104(f), and amendments thereto, shall be inapplicable to a fiduciary financial institution's fidfin transactions regardless of the identity of the fidfin trust beneficiary if:

(1) The borrower is a fidfin trust; and

(2) the fiduciary financial institution serves as trustee of the borrowing fidfin trust.

(e) A fiduciary financial institution that engages in a fidfin transaction shall be a fiduciary. Subject to the duties and standards of utmost care and loyalty that are associated with serving as a fiduciary, a fiduciary financial institution shall be deemed to be exercising fiduciary powers. All income generated by such fidfin transactions, including interest and investment income, shall be deemed to be income derived from the exercise of such fiduciary powers.

(f) A fiduciary financial institution that engages in fidfin transactions shall distribute, cause to be distributed or otherwise facilitate the distribution of the required distribution amount as provided by this section. For purposes of this section, "required distribution amount" means cash, beneficial interests or other assets with a value equal to 2.5% of such fiduciary financial institution's fidfin transactions originated during the calendar year. Such transactions shall exclude any renewals, extensions of credit or accruals associated with transactions made in a prior calendar year, less any credit available to such fiduciary financial institution pursuant to section 2, and amendments thereto. The required distribution amount shall be distributed as follows:

(1) (A) To the department of commerce:

Required distribution amount	Percentage to department of commerce
$0 to $500,000	90%
$500,001 to $1,000,000	50%
Above $1,000,000	10%

(B) the amounts specified in subparagraph (A) shall apply to fiduciary financial institutions chartered prior to January 1, 2023. For fiduciary financial institutions chartered after such date, the department of commerce may publish one or more schedules in the Kansas register as the department of commerce deems reasonably necessary to facilitate economic growth and development in one or more economic growth zones. No such schedule shall be effective until after its publication in the Kansas register. The department of commerce shall timely submit any schedule published under this section to the commissioner. The commissioner shall provide a copy of such schedule to any applicant for a fiduciary financial institution charter prior to the issuance of such charter. A fiduciary financial institution shall be subject to the schedule in existence on the date such fiduciary financial institution's charter is issued and shall not be subject to any schedules published after such date;

(C) the department of commerce shall remit all distributions 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 technology-enabled fiduciary financial institutions development and expansion fund established in section 24, and amendments thereto; and

(2) the balance of the required distribution amount shall be distributed to one or more qualified charities as defined in section 28, and amendments thereto, as shall be selected by the fiduciary financial institution. An economic growth zone or qualified charity shall have no obligation to repay any distributions received under this act or to make any contributions to a fiduciary financial institution.

(g) The form, treatment and character of fidfin transactions under the laws of this state shall be respected for all purposes of this act notwithstanding the treatment or characterization of such transactions under generally accepted accounting principles or for tax purposes.

Sec. 12. (a) Subject to the requirements of section 9(d), and amendments thereto, a fiduciary financial institution may:

(1) Employ attorneys, accountants, investment advisors, agents or other persons, even if they are affiliated or associated with the fiduciary financial institution, to advise or assist the fiduciary financial institution in the performance of such fiduciary financial institution's fidfin transactions, custodial services and trust business and act without independent investigation upon such recommendations;

(2) employ one or more agents to perform any act of fidfin transactions, custodial services or trust business;

(3) license internet-related services, including web services, software, mobile applications, technology-enabled platforms and processes to or from affiliates, third parties, other fiduciary financial institutions and their affiliates;

(4) license fidfin products and forms, as defined in section 21, and amendments thereto, to or from other fiduciary financial institutions and their affiliates;

(5) perform any services that a fiduciary financial institution is authorized to perform under the laws of this state on behalf of another fiduciary financial institution; and

(6) employ another fiduciary financial institution to perform any services that a fiduciary financial institution is authorized to perform under the laws of this state.

(b) A party engaged by a fiduciary financial institution pursuant to subsection (a) shall not be deemed to have engaged in fidfin transactions, custodial services or trust business in this state nor shall such party be deemed a trust service office of the fiduciary financial institution under K.S.A. 9-2108, and amendments thereto, or a trust facility or out-of-state facility under K.S.A. 9-2111, and amendments thereto, by reason of providing services to a fiduciary financial institution or licensing products, platforms, systems or processes to such fiduciary financial institution.

(c) A fiduciary financial institution that provides services or licenses fidfin products or forms pursuant to subsection (a) shall not be deemed a trust service office of the fiduciary financial institution that has acquired such services or licensed such products or forms.

(d) If a fiduciary financial institution offers its technology-enabled platform to provide fidfin services to residents of other states, neither the marketing, use and deployment of such platform by parties in other states nor the origination of fidfin services through such platform shall constitute an out-of-state trust facility under K.S.A. 9-2111, and amendments thereto, if the fiduciary financial institution complies with the provisions of section 9, and amendments thereto.

(e) A fiduciary financial institution shall provide notice to the commissioner pursuant to the provisions of K.S.A. 9-2103(a)(12), and amendments thereto, if such fiduciary financial institution engages a party pursuant to the provisions of subsection (a).

Sec. 13. (a) A fiduciary financial institution may serve as a custodian, which may include serving as a qualified custodian, as defined by the United States securities and exchange commission in 17 C.F.R. § 275.206(4)-2, of an asset custody account. In performing custodial services under this section, a fiduciary financial institution shall:

(1) Implement all accounting, account statement, internal control, notice and other standards specified by applicable state or federal law and rules and regulations for custodial services;

(2) maintain information technology best practices relating to alternative assets held in custody;

(3) fully comply with applicable federal anti-money laundering, customer identification and beneficial ownership requirements; and

(4) take other actions necessary to comply with the requirements of this section.

(b) Alternative asset custody accounts over which a fiduciary financial institution serves as a custodian or qualified custodian are not depository liabilities or assets of the fiduciary financial institution.

(c) In performing custodial services under this section:

(1) A fiduciary financial institution shall be a fiduciary and shall be subject to the duties and standards of utmost care and loyalty that are associated with serving as a fiduciary;

(2) a fiduciary financial institution shall be deemed to be exercising fiduciary powers; and

(3) all income earned by a fiduciary financial institution and derived from performing custodial services shall be deemed to be income derived from the exercise of fiduciary powers.

Sec. 14. Any instrument providing for a trust advisor may also provide such trust advisor with some, none or all of the rights, powers, privileges, benefits, immunities or authorities available to a trustee under Kansas law or under such instrument. Unless the instrument provides otherwise, a trust advisor has no greater liability to any person than would a trustee holding or benefiting from the rights, powers, privileges, benefits, immunities or authority provided or allowed by the instrument to such trust advisor.

Sec. 15. (a) An excluded fiduciary is not liable, either individually or as a fiduciary, for any of the following:

(1) Any loss that results from compliance with a direction of the trust advisor, including any loss from the trust advisor breaching fiduciary responsibilities or acting beyond the trust advisor's scope of authority; or

(2) any loss that results from a failure to take any action proposed by an excluded fiduciary that requires a prior authorization of the trust advisor if such excluded fiduciary timely sought but failed to obtain such authorization.

(b) Any excluded fiduciary is relieved from any obligation to review or evaluate any direction from a trust advisor to make distributions or to perform investment or suitability reviews, inquiries or investigations or to make recommendations or evaluations with respect to any investments to the extent the trust advisor had authority to direct the acquisition, disposition or retention of the investment. If the excluded fiduciary offers such

recommendations or evaluations to the trust advisor or any investment person selected by the trust advisor, such action shall not constitute an undertaking by the excluded fiduciary to monitor or otherwise participate in actions within the scope of the advisor's authority or to constitute any duty to do so.

(c) Any excluded fiduciary is also relieved of any duty to communicate with or warn or apprise any beneficiary or third party concerning instances in which the excluded fiduciary would or might have exercised the excluded fiduciary's own discretion in a manner different from the manner directed by the trust advisor.

(d) Absent contrary provisions in the governing instrument, the actions of the excluded fiduciary, such as any communications with the trust advisor and others and carrying out, recording and reporting actions taken at the trust advisor's direction, pertaining to matters within the scope of authority of the trust advisor, shall be deemed to be administrative actions taken by the excluded fiduciary solely to allow the excluded fiduciary to perform those duties assigned to the excluded fiduciary under the governing instrument. Such administrative actions shall not constitute an undertaking by the excluded fiduciary to monitor, participate or otherwise take any fiduciary responsibility for actions within the scope of authority of the trust advisor.

(e) In any action against an excluded fiduciary pursuant to the provisions of this section, the burden to prove the matter by clear and convincing evidence is on the person seeking to hold the excluded fiduciary liable.

Sec. 16. (a) A trust advisor shall be presumed to be a fiduciary when exercising such trust advisor's authority under this act.

(b) By accepting an appointment to serve as a trust advisor of a fidfin trust or an alternative asset custody account that is subject to the laws of this state, the trust advisor submits to the jurisdiction of the courts of Kansas even if investment advisory agreements or other related agreements provide otherwise. The trust advisor may be made a party to any action or proceeding relating to a decision or action of the trust advisor.

(c) An instrument may appoint an individual, corporation or limited liability company as the trust advisor of a fidfin trust or an alternative asset custody account.

Sec. 17. (a) If an entity is appointed as a trust advisor, the provisions of article 8 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto, shall not apply to such entity, if the entity:

(1) Is established for the exclusive purpose of acting as a trust advisor;

(2) is acting in such capacity under an instrument that names a fiduciary financial institution as trustee or custodian;

(3) is not engaged in trust business with the general public as a public trust company or with any family as a private trust company;

(4) does not hold itself out as being in the business of acting as a fiduciary for hire as either a public or private trust company; and

(5) agrees to be subject to examination by the office of the state bank commissioner at the discretion of the commissioner.

(b) The governing documents of any such entity shall limit such entity's authorized activities to those of a trust advisor and shall further limit the performance of such functions to only fidfin trusts and alternative asset custody accounts. An entity complying with this section shall notify the director of its existence and capacity to act.

Sec. 18. An instrument may relieve and indemnify a trust advisor and a fiduciary financial institution that serves as trustee of a fidfin trust or alternative asset custody account from liability for a breach of fiduciary duty if any such provision is unenforceable to the extent that it relieves the trust advisor or fiduciary financial institution from liability for a breach of fiduciary duty committed:

(a) In bad faith;

(b) intentionally; or

(c) with reckless indifference to the interest of a beneficiary.

Sec. 19. (a) Notwithstanding the provisions of K.S.A. 58a-708, and amendments thereto, if the terms of a fidfin trust specify the trustee's compensation, such trustee is entitled to be compensated as provided in such terms, except that compensation may be increased or decreased upon approval by the trustee and by unanimous consent of the beneficiaries.

(b) If the terms of a fidfin trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, except that the court may allow more compensation if:

(1) The duties of the trustee are substantially different from those contemplated when the trust was created; or

(2) the compensation specified by the terms of the trust would be unreasonably low.

Sec. 20. The privacy of those who have established a fidfin trust or alternative asset custody account shall be protected in any court proceeding concerning such trust if the acting trustee, custodian, trustor or any beneficiary so petition the court. Upon the filing of such a petition, the instrument, inventory, statement filed by any trustee or custodian, annual verified report of the trustee or custodian, final report of the trustee or custodian and all petitions relevant to trust administration and all court orders thereon shall be sealed upon filing and shall not be made a part of the public record of the proceeding, except that such petition shall be available to the court, the trustor, the trustee, the custodian, any beneficiary, their attorneys and to such other interested persons as the court may order upon a showing of need.

Sec. 21. (a) For purposes of this section, "form" includes:

(1) An instrument as defined in section 1, and amendments thereto;

(2) a transaction agreement between a fiduciary financial institution and a fidfin trust;

(3) any other documents executed by a fiduciary financial institution or a fidfin trust in connection with a fidfin transaction; and

(4) any document executed by a fiduciary financial institution or a customer in connection with the creation and management of an alternative asset custody account.

(b) The commissioner may, upon a written request from a fiduciary financial institution prior to a form submission, offer to review a form and reply with informational comments only. Such informational comments shall not, in any manner, constitute approval or endorsement of such form, and the fiduciary financial institution shall not represent that such form has been approved by the office of the state bank commissioner.

Sec. 22. (a) Pursuant to K.S.A. 9-1713, and amendments thereto, the commissioner shall adopt rules and regulations on or before January 1, 2022, as are necessary to administer this act.

(b) The office of the state bank commissioner may enter into contracts for technical assistance and professional services as are necessary to administer the provisions of this act and to meet the deadline for the adoption of rules and regulations provided by this section. Such contracts shall be exempt from the requirements of K.S.A. 75-3739, 75-37,102 and 75-37,132, and amendments thereto, or any other statute relating to the procurement of such services.

Sec. 23. Notwithstanding the provisions of chapter 16 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, or any other statute, there is no maximum interest rate or charge or usury rate restriction between or among a fiduciary financial institution and a fidfin trust if the interest rate or charge is established by written agreement. A "written agreement" means a document in writing, whether in physical or electronic form, in which the parties have demonstrated their agreement to the terms and conditions of an extension of credit, including the rate of interest.

Sec. 24. (a) There is hereby established in the state treasury the technology-enabled fiduciary financial institutions development and expansion fund to be administered by the secretary of commerce. Expenditures from the fund shall be for the purposes of distributing to economic growth zones for the purposes of economic development projects or opportunities and promoting and facilitating the development, growth and expansion of fiduciary financial institutions, fidfin activities and custodial services in the state and to locate such fiduciary financial institutions' office space in an economic growth zone as defined in section 1, and amend-

ments thereto. All expenditures from the technology-enabled fiduciary financial institutions development and expansion fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or the secretary's designee.

(b) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the technology-enabled fiduciary financial institutions development and expansion fund interest earnings based on:

(1) The average daily balance of moneys in the technology-enabled fiduciary financial institutions development and expansion fund for the preceding month; and

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

Sec. 25. (a) On July 1, 2021, the commissioner shall:

(1) Grant a conditional fiduciary financial institution charter to the Beneficient company upon the Beneficient company:

(A) Filing an application with the commissioner;

(B) satisfying the requirements of sections 2(c)(1) through (5), and amendments thereto;

(C) satisfying the requirements of section 2(f), and amendments thereto; and

(D) satisfying the capital requirements imposed under section 5, and amendments thereto; and

(2) designate a community within Harvey county, as selected by Beneficient fiduciary financial institution, as the first economic growth zone.

(b) On July 1, 2021, the commissioner shall establish a fidfin fiduciary financial institution pilot program that:

(1) Includes the Beneficient company as a participant in such pilot program;

(2) assesses the Beneficient company an initial fee of $1,000,000 in lieu of the initial fee provided in section 3, and amendments thereto; and

(3) imposes a requirement for the Beneficient company to distribute, cause to be distributed or otherwise facilitate a distribution of cash, beneficial interests or other assets having an aggregate value of $9,000,000 in accordance with the requirements of section 2(i), and amendments thereto, and such amount shall be construed as the applicable distribution amount for purposes of section 2, and amendments thereto.

(c) Except as provided by subsection (d), upon issuance of the conditional fiduciary financial institution charter, the Beneficient company shall be subject to all requirements imposed on fiduciary financial institutions under this act but may not commence fidfin transactions, custodial services or trust business in this state until the earlier of:

(1) December 31, 2021; or

(2) the date the commissioner adopts rules and regulations pursuant to section 22, and amendments thereto.

(d) The commissioner may extend the period that the Beneficient company may not commence fidfin transactions, custodial services or trust business in this state for a period not to exceed six months from the date specified in subsection (c) if the commissioner submits a report to the senate financial institutions and insurance committee and to the house of representatives financial institutions and rural development committee identifying the specific reasons for which such extension is necessary. Such report shall be submitted on or before January 10, 2022. Notwithstanding the provisions of this subsection, the Beneficient company may satisfy the applicable distribution requirement of section 2(i), and amendments thereto, and the required distribution amount in section 11(f), and amendments thereto, by placing assets in escrow with one or more qualified charities, except that such funds shall be released when the Beneficient company is permitted to commence fidfin transactions, custodial services or trust business.

(e) On or before January 10, 2022, the office of the state bank commissioner shall provide a report to the house of representatives financial institutions and rural development committee and the senate financial institutions and insurance committee updating such committees on the progress of such pilot program. Such report shall include recommendations from the office of the state bank commissioner for any legislation necessary to implement the provisions of this act.

Sec. 26. Notwithstanding the provisions of K.S.A. 59-3401, and amendments thereto, no interest held in a fidfin trust shall be void or invalid by reason of any common law rule, including, but not limited to, the rule against perpetuities or rule limiting the duration of trusts.

Sec. 27. Notwithstanding the provisions of K.S.A. 17-2035, and amendments thereto, for purposes of any tax imposed by the state or any instrumentality, agency or political subdivision of this state, a business trust that is used in connection with fidfin transactions or custodial services, as defined in section 1, and amendments thereto, and for which a fiduciary financial institution, as defined in section 1, and amendments thereto, serves as trustee shall be classified as a corporation, an association, a partnership, a trust or otherwise, as shall be determined under the federal internal revenue code.

Sec. 28. (a) For taxable years commencing after December 31, 2020, there shall be allowed as a credit against the tax liability of a fiduciary financial institution imposed pursuant to the Kansas income tax act or the privilege tax imposed upon a fiduciary financial institution pursuant to ar-

ticle 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, in an amount equal to the qualified charitable distributions made in connection with the fiduciary financial institution's fidfin activities during such taxable year if the fiduciary financial institution maintained such fiduciary financial institution's principal office in an economic growth zone during such taxable year in accordance with the provisions of section 9, and amendments thereto.

(b) For purposes of this section:

(1) "Economic growth zone" and "fidfin" means the same as defined in section 1, and amendments thereto;

(2) "qualified charitable distributions" means distributions of cash, beneficial interests or other assets to one or more qualified charities having an aggregate value equal to at least 2.5% of the fiduciary financial institution's transactions originated during the taxable year. Such transactions shall exclude any renewals, extensions of credit or accruals associated with transactions made in a prior taxable year;

(3) "qualified charities" means one or more charities, in which contributions are allowable as a deduction pursuant to section 170 of the federal internal revenue code if such charities have:

(A) Been organized pursuant to a charter promulgated by the department of commerce for the purposes of making distributions for the benefit of economic growth zones;

(B) committed in writing to utilize the entire amount of the qualified charitable distributions, excluding reasonable administrative expenses, exclusively for the benefit of charitable causes located in one or more economic growth zones or postsecondary educational institutions as defined in K.S.A. 74-3201b, and amendments thereto; and

(C) agreed to provide an annual report to the department of commerce detailing qualified distributions received during such year, distributions made pursuant to subparagraph (B) and the remaining balance of qualified distributions as of the end of the reporting year.

The requirements of subparagraph (A) shall not apply to a charity, contributions to which are allowable as a deduction pursuant to section 170 of the federal internal revenue code, that has committed in writing to utilize the entire amount of the qualified charitable distributions, excluding reasonable administrative expenses, exclusively for the benefit of the economic growth zone identified in section 25(a)(2), and amendments thereto.

(c) No credit shall be allowed under this section if the fiduciary financial institution's tax return on which the credit is claimed is not timely filed, including any extension.

(d) A distribution or remittance to the department of commerce pursuant to section 11, and amendments thereto, shall be deemed a qualified charitable distribution for purposes of this section.

(e) A fiduciary financial institution shall not be required to ensure that qualified charitable distributions are made solely for the benefit of the economic growth zones where such fiduciary financial institution has:

(1) Established such fiduciary financial institution's principal office pursuant to section 9, and amendments thereto; or

(2) made qualified investments as defined in section 1, and amendments thereto. Qualified charitable distributions may be made for the benefit of any one or more economic growth zones.

(f) If a fiduciary financial institution is a pass-through entity for Kansas tax purposes and the credit allowed by this section for a taxable year is greater than the fiduciary financial institution's tax liability against which the tax credit may be applied, a member of the entity or any other party who is required to report such income on a Kansas income tax return is entitled to a tax credit equal to the tax credit determined for the fiduciary financial institution for the taxable year in excess of the fiduciary financial institution's tax liability under the Kansas income tax act or privilege tax under article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for the taxable year multiplied by the percentage of the fiduciary financial institution's distributive income to which the member is entitled. Tax credits allowed and earned under this section shall not be sold, assigned, conveyed or otherwise transferred.

(g) If the amount of a tax credit allowed a member or other party under this section exceeds the taxpayer's income tax liability for the taxable year in which the tax credit is allowed, the amount thereof that exceeds such tax liability may be carried over for deduction from the taxpayer's income or privilege tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the 5th taxable year succeeding the taxable year in which the tax credit is first allowed.

(h) In any taxable year, a fiduciary financial institution shall pay the greater of the qualified charitable distributions made during such taxable year or the tax liability of a fiduciary financial institution imposed pursuant to the Kansas income tax act or the privilege tax imposed upon a fiduciary financial institution pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto.

(i) This section shall be a part of and supplemental to the Kansas income tax act.

Sec. 29. (a) There is hereby created the joint committee on fiduciary financial institutions oversight, which shall be composed of four senators and five members of the house of representatives. The four senate members shall be the chairperson of the standing committee on financial institutions and insurance of the senate, or a member of such committee

appointed by the chairperson, two members appointed by the president of the senate and one member appointed by the minority leader of the senate. The five representative members shall be the chairperson of the standing committee on financial institutions and rural development of the house of representatives, or a member of such committee appointed by the chairperson, two members appointed by the speaker of the house of representatives and two members appointed by the minority leader of the house of representatives.

(b) All members of the joint committee on fiduciary financial institutions oversight shall serve for terms ending on the first day of the regular legislative session in odd-numbered years. On and after the first day of the regular legislative session in odd-numbered years, the chairperson shall be one of the representative members of the joint committee selected by the speaker of the house of representatives, and the vice chairperson shall be one of the senate members selected by the president of the senate. On and after the first day of the regular legislative session in even-numbered years, the chairperson shall be one of the senate members of the joint committee selected by the president of the senate and the vice chairperson shall be one of the representative members of the joint committee selected by the speaker of the house of representatives. The chairperson and vice chairperson of the joint committee shall serve in such capacities until the first day of the regular legislative session in the ensuing year. The vice chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(c) A quorum of the joint committee on fiduciary financial institutions oversight shall be a majority of the members. The joint committee on fiduciary financial institutions oversight shall meet at any time and at any place within the state on call of the chairperson. Members of the joint committee shall receive compensation, travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee authorized by the legislative coordinating council.

(d) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee on fiduciary financial institutions oversight.

(e) The joint committee on fiduciary financial institutions oversight may introduce such legislation as deemed necessary in performing such committee's functions.

(f) The joint committee on fiduciary financial institutions oversight shall:

(1) Monitor, review and make recommendations regarding fiduciary financial institutions' operations in the state of Kansas;

(2) monitor, review and make recommendations regarding the fiduciary financial institutions pilot program established in section 25, and amendments thereto; and

(3) receive a report from the office of the state bank commissioner prior to December 31, 2021, providing an update on the implementation of the technology-enabled fiduciary financial institutions act and the pilot program established in section 25, and amendments thereto. Such report shall include recommendations from the office of the state bank commissioner for any legislation necessary to implement the provisions of the technology-enabled fiduciary financial institutions act.

(g) The office of the state bank commissioner shall appear annually before the joint committee and shall present a report on the fiduciary financial institution industry.

Sec. 30. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2021.

CHAPTER 81

HOUSE BILL No. 2114

AN ACT concerning elder and dependent persons; relating to abuse thereof; establishing the Kansas senior care task force, a Kansas elder and dependent adult abuse multidisciplinary team coordinator and elder and dependent adult abuse multidisciplinary teams; prescribing requirements for membership; meeting requirements; records; report to the legislature; requiring additional persons to report abuse, neglect or financial exploitation of adults; directing the neglect and exploitation of persons unit of the attorney general to assist in multidisciplinary team investigations; amending K.S.A. 39-1438, 39-1441 and 75-723 and K.S.A. 2020 Supp. 39-1430, 39-1431, 39-1433 and 39-1443 and repealing the existing sections.

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

New Section 1. (a) There is hereby established the Kansas senior care task force. The task force shall study the following topics:

(1) The provision of care for seniors in the state of Kansas who suffer from Alzheimer's disease, dementia or other age-related mental health conditions;

(2) the administration of antipsychotic medications to adult care home residents;

(3) the safeguards to prevent abuse, neglect and exploitation of seniors in the state of Kansas;

(4) adult care home surveys and fines;

(5) the funding and implementation of the Kansas senior care act, K.S.A. 75-5926 through 75-5936, and amendments thereto;

(6) senior daycare resources in the state of Kansas; and

(7) rebalancing of home and community based services.

(b) The Kansas senior care task force shall consist of the following members:

(1) The chairperson of the senate standing committee on public health and welfare;

(2) a member of the senate standing committee on public health and welfare, appointed by the president of the senate;

(3) a member of the senate standing committee on public health and welfare, appointed by the minority leader of the senate;

(4) the chairperson of the house of representatives standing committee on children and seniors;

(5) a member of the house of representatives standing committee on children and seniors, appointed by the speaker of the house of representatives;

(6) the ranking minority member of the house of representatives standing committee on children and seniors;

(7) one representative of the Kansas department for aging and disability services, appointed by the secretary for aging and disability services;

(8) one representative of the department of health and environment, appointed by the secretary of health and environment;

(9) the state long-term care ombudsman or the state long-term care ombudsman's designee;

(10) an elder law attorney, appointed by the governor;

(11) one representative of the area agencies on aging, appointed by the secretary for aging and disability services;

(12) one representative of the Kansas adult care executives association, appointed by the governor;

(13) one representative of leadingage Kansas, appointed by leadingage Kansas;

(14) one representative of the Kansas health care association, appointed by the Kansas health care association;

(15) one representative of Kansas advocates for better care, appointed by Kansas advocates for better care;

(16) one representative of the Kansas hospital association, appointed by the Kansas hospital association;

(17) one representative of community mental health centers, as defined in K.S.A. 2020 Supp. 39-2002, amendments thereto, appointed by the association of community mental health centers of Kansas;

(18) one representative of an adult care home, as defined in K.S.A. 2020 Supp. 39-923, and amendments thereto, appointed by the secretary for aging and disability services;

(19) one representative of the American association of retired persons, appointed by the American association of retired persons;

(20) one representative from the home and community-based services community, appointed by interhab;

(21) one representative of the Alzheimer's association, appointed by the Alzheimer's association; and

(22) a consumer of Kansas senior services, appointed by the speaker of the silver haired legislature.

(c) (1) The first members of the Kansas senior care task force shall be appointed on or before August 1, 2021. The appointing authorities listed in subsection (b) shall provide notice of such appointments to the secretary for aging and disability services on the date of such appointment.

(2) The chairperson of the house of representatives standing committee on children and seniors shall serve as the first chairperson of the Kansas senior care task force, and the chairperson of the senate standing committee on public health and welfare shall serve as the first vice-chairperson of the task force. The position of chairperson and vice-chairperson shall annually alternate upon the first meeting of the task force in each calendar year.

(3) The chairperson of the task force shall serve as the official custodian of the public records of the task force. As used in this paragraph,

"official custodian" and "public records" mean the same as provided in the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(4) The Kansas senior care task force may meet in an open meeting at any time and at any place by any means within the state of Kansas upon the call of the chairperson.

(5) A majority of the voting members of the Kansas senior care task force constitutes a quorum. Any action by the task force shall be by motion adopted by a majority of voting members present when there is a quorum.

(6) Any vacancy on the task force shall be filled by appointment and accompanied by notice in the manner prescribed in this section for the original appointment.

(d) The Kansas department for aging and disability services shall, upon request by the Kansas senior care task force, provide data and information relating to senior services in the state of Kansas that is not otherwise prohibited or restricted from disclosure by state or federal law, including conditions imposed by federal law or rules and regulations for participation in federal programs administered by the secretary for aging and disability services.

(e) The Kansas senior care task force shall submit a preliminary progress report to the legislature detailing the task force's study under this section on or before the beginning of the 2022 regular session of the legislature and a final report to the legislature detailing the task force's study on or before the beginning of the 2023 regular session of the legislature.

(f) The Kansas senior care task force's report shall include recommended improvements regarding the well-being of seniors in the state of Kansas, including recommended changes to state statutes, rules and regulations, policies and programs.

(g) Staff of the office of revisor of statutes, the legislative research department and the division of legislative administrative services shall provide assistance as may be requested by the Kansas senior care task force.

(h) Subject to approval by the legislative coordinating council, members of the Kansas senior services task force attending meetings authorized by the task force shall be paid amounts provided in K.S.A. 75–3223(e), and amendments thereto, except that task force members who are employed by a state agency shall be reimbursed by such state agency.

(i) The provisions of this section shall expire on June 30, 2023.

New Sec. 2. (a) The attorney general shall appoint a Kansas elder and dependent adult abuse multidisciplinary team coordinator and, within the limits of appropriations available therefor, such additional staff as necessary to support the coordinator. The coordinator shall facilitate the convening of an elder and dependent adult abuse multidisciplinary team in each judicial district.

(b) (1) Such teams shall be composed of the following individuals, or their designee:

(A) The sheriff of each county within the judicial district;

(B) the county or district attorney of each county within the judicial district;

(C) the secretary for children and families;

(D) the secretary for aging and disability services; and

(E) the state long-term care ombudsman.

(2) Such teams may also include the following individuals:

(A) A representative from any law enforcement agency not included in subsection (b)(1)(A);

(B) a medical provider;

(C) a legal services provider;

(D) a housing provider or representative of elder or dependent adult housing facilities;

(E) the district coroner or a medical examiner;

(F) a representative of the financial services or banking industry;

(G) a representative of the area agencies on aging; or

(H) any other individual deemed necessary by the team.

(c) Such team:

(1) Shall coordinate investigations of elder and dependent adult abuse as defined by K.S.A. 21-5417, 39-1401 et seq. and 39-1430 et seq., and amendments thereto; and

(2) may identify opportunities within local jurisdictions to improve policies and procedures in the notification and response to abuse, neglect and exploitation of elder or dependent adults, within the limits of local resources.

(d) Such team shall determine the manner and frequency of meetings, but shall not meet less than quarterly. The team may create and enter into memorandums of understanding with any governmental agency or private entity deemed necessary by the team.

(e) All documents, materials or other information obtained by or discussed by the team shall be confidential and privileged and not be subject to the provisions of the Kansas open records act as provided by K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2026, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

(f) Meetings conducted pursuant to this section shall not be subject to the provisions of the Kansas open meetings act as provided by K.S.A. 75-4317 et seq., and amendments thereto.

(g) On or before the first day of each regular session of the legislature, beginning with the 2022 regular session, the attorney general shall submit a report to the legislature on the implementation and use of the teams.

Sec. 3. K.S.A. 2020 Supp. 39-1430 is hereby amended to read as follows: 39-1430. As used in this act:

(a) *"Act" means K.S.A. 39-1430 et seq., and amendments thereto.*

(b) (1) "Adult" means ~~an individual~~ *a person* 18 years of age or older alleged to be unable to protect ~~their~~ *such person's* own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action or inaction by either another individual or through ~~their~~ *such person's* own action or inaction when:

~~(1)~~*(A)* Such person is residing in such person's own home, the home of a family member or the home of a friend;

~~(2)~~*(B)* such person resides in an adult family home as defined in K.S.A. 39-1501, and amendments thereto; or

~~(3)~~*(C)* such person is receiving services through*:*

(i) A provider of community services and affiliates thereof operated or funded by the Kansas department for children and families*;* or

(ii) the Kansas department for aging and disability services or a residential facility licensed pursuant to K.S.A. 2020 Supp. 39-2001 et seq., and amendments thereto.

~~Such term shall~~*(2) "Adult" does* not include persons to whom K.S.A. 39-1401 et seq., and amendments thereto, apply.

~~(b)~~*(c)* "Abuse" means any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to an adult, including:

(1) Infliction of physical or mental injury;

(2) any sexual act with an adult when the adult does not consent or when the other person knows or should know that the adult is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship;

(3) unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm an adult;

(4) unreasonable use of a physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician's orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the adult; *or*

(5) a threat or menacing conduct directed toward an adult that results or might reasonably be expected to result in fear or emotional or mental distress to an adult~~;~~

~~(6) fiduciary abuse; or~~

~~(7) omission or deprivation by a caretaker or another person of goods or services that are necessary to avoid physical or mental harm or illness~~.

~~(c)~~*(d)* "Neglect" means the failure or omission by one's self, caretaker or another person with a duty to supply or provide goods or services that are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

~~(d)~~*(e)* "*Financial* exploitation" means ~~misappropriation of an adult's property or intentionally taking unfair advantage of an adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person~~ *the unlawful or improper use, control or withholding of an adult's property, income, resources or trust funds by any other person or entity in a manner that is not for the profit of or to the advantage of the adult. "Financial exploitation" includes, but is not limited to:*

(1) The use of deception, intimidation, coercion, extortion or undue influence by a person or entity to obtain or use an adult's property, income, resources or trust funds in a manner for the profit of or to the advantage of such person or entity;

(2) the breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust or a guardianship or conservatorship appointment, as it relates to the property, income, resources or trust funds of the adult; or

(3) the obtainment or use of an adult's property, income, resources or trust funds, without lawful authority, by a person or entity who knows or clearly should know that the adult lacks the capacity to consent to the release or use of such adult's property, income, resources or trust funds.

~~(e) "Fiduciary abuse" means a situation in which any person who is the caretaker of, or who stands in a position of trust to, an adult, takes, secretes or appropriates their money or property to any use or purpose not in the due and lawful execution of such person's trust or benefit.~~

(f) "In need of protective services" means that an adult is unable to provide for or obtain services that are necessary to maintain physical or mental health or both.

(g) "Services that are necessary to maintain physical or mental health or both" include, but are not limited to, the provision of medical care for physical and mental health needs, the relocation of an adult to a facility or institution able to offer such care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment and transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent except as provided in this act.

(h) "Protective services" means services provided by the state or other governmental agency or by private organizations or individuals that are necessary to prevent abuse, neglect or *financial* exploitation. Such protective services ~~shall~~ include, but ~~shall~~ *are* not ~~be~~ limited to, evaluation of the

need for services, assistance in obtaining appropriate social services and assistance in securing medical and legal services.

(i) "Caretaker" means a person who has assumed the responsibility, whether legally or not, for an adult's care or financial management or both.

(j) "Secretary" means the secretary for children and families.

(k) "Report" means a description or accounting of an incident or incidents of abuse, neglect or *financial* exploitation under this act and, for the purposes of this act ~~shall~~, *does* not include any written assessment or findings.

(l) "Law enforcement" means the public office that is vested by law with the duty to maintain public order, make arrests for crimes, investigate criminal acts and file criminal charges, whether that duty extends to all crimes or is limited to specific crimes.

(m) "Involved adult" means the adult who is the subject of a report of abuse, neglect or *financial* exploitation under this act.

(n) "Legal representative," "financial institution" and "governmental assistance provider" mean the same as defined in K.S.A. 39-1401, and amendments thereto.

No person shall be considered to be abused, neglected ~~or~~, *financially* exploited or in need of protective services for the sole reason that such person relies upon spiritual means through prayer alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment.

Sec. 4. K.S.A. 2020 Supp. 39-1431 is hereby amended to read as follows: 39-1431. (a) ~~Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a licensed clinical psychotherapist, the chief administrative officer of a medical care facility, a teacher, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed dentist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor, a law enforcement officer, an emergency medical service provider, a case manager, a rehabilitation counselor, a bank trust officer or any other officers of financial institutions, a legal representative, a governmental assistance provider, an owner or operator of a residential care facility, an independent living counselor and the chief administrative officer of a licensed home health agency, the chief administrative officer of an adult family home and the chief administrative officer of a provider of community services and affiliates thereof operated or funded by the Kansas department for aging and disability services or licensed under K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto, who has reasonable cause to believe that an adult is being or has been abused, neglected or exploited or is in~~

~~need of protective services shall report, immediately from receipt of the information, such information or cause a report of such information to be made in any reasonable manner.~~ *(1) When any of the following persons has reasonable cause to suspect or believe that an adult is in need of protective services or being harmed as a result of abuse, neglect or financial exploitation, such person shall promptly report the matter as provided by the provisions of this section:*

(A) Persons licensed to practice the healing arts;

(B) persons engaged in postgraduate training programs approved by the state board of healing arts;

(C) persons licensed by the Kansas dental board to engage in the practice of dentistry;

(D) persons licensed by the board of examiners in optometry to engage in the practice of optometry;

(E) persons licensed by the board of nursing to engage in the practice of nursing;

(F) chief administrative officers of medical care facilities;

(G) persons licensed by the behavioral sciences regulatory board to provide mental health services, including psychologists, masters level psychologists, bachelors level social workers, masters level social workers, clinical social workers, marriage and family therapists, clinical marriage and family therapists, professional counselors, clinical professional counselors, behavior analysts, addiction counselors and clinical addiction counselors;

(H) teachers, school administrators or other employees of any Kansas educational institution, as defined in K.S.A. 75-53,112, and amendments thereto, that the adult is attending;

(I) firefighters, law enforcement officers and emergency medical services personnel;

(J) court services officers, community corrections officers, case managers appointed under K.S.A. 23-3508, and amendments thereto, and mediators appointed under K.S.A. 23-3502, and amendments thereto;

(K) bank trust officers or any other officers of financial institutions;

(L) rehabilitation counselors;

(M) legal representatives;

(N) governmental assistance providers;

(O) independent living counselors;

(P) owners or operators of residential care facilities, as defined in K.S.A. 2020 Supp. 39-2002, and amendments thereto;

(Q) the chief administrative officer of a licensed home health agency, as defined in K.S.A. 65-5101, and amendments thereto;

(R) the chief administrative officer of an adult family home, as defined in K.S.A. 39-1501, and amendments thereto; and

(S) the chief administrative officer of any provider of community services and affiliates thereof operated or funded by the Kansas department for children and families or licensed under K.S.A. 39-2001 et seq., and amendments thereto.

(2) An employee of a domestic violence center shall not be required to report information or cause a report of information to be made under this subsection.

(b) Other state agencies receiving reports that are to be referred to the Kansas department for children and families and the appropriate law enforcement agency, shall submit the report to the department and agency within six hours, during normal work days, of receiving the information. Reports shall be made to the Kansas department for children and families during the normal working week days and hours of operation. Reports shall be made to law enforcement agencies during the time the Kansas department for children and families is not in operation. Law enforcement shall submit the report and appropriate information to the Kansas department for children and families on the first working day that the Kansas department for children and families is in operation after receipt of such information.

~~(b)~~*(c)* The report made pursuant to ~~subsection (a)~~ *this section* shall contain the name and address of the person making the report and of the caretaker caring for the involved adult, the name and address of the involved adult, information regarding the nature and extent of the abuse, neglect or *financial* exploitation, the name of the next of kin of the involved adult, if known, and any other information that the person making the report believes might be helpful in the investigation of the case and the protection of the involved adult.

~~(c)~~*(d)* Any other person, not listed in subsection (a)~~, having~~ *who has* reasonable cause to suspect or believe that an adult is being or has been ~~abused, neglected or exploited or is in need of protective services~~ *harmed as a result of abuse, neglect or financial exploitation* may report such information to the Kansas department for children and families. Reports shall be made to law enforcement agencies during the time the Kansas department for children and families is not in operation.

~~(d)~~*(e)* A person making a report under subsection (a) shall not be required to make a report under K.S.A. 39-1401 through 39-1410, and amendments thereto.

~~(e)~~*(f)* Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or ~~cause~~ *knowingly causes* such report not to be made shall be guilty of a class B misdemeanor.

~~(f)~~*(g)* Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicu-

ous public place in every adult family home as defined in K.S.A. 39-1501, and amendments thereto, and every provider of community services and affiliates thereof operated or funded by the Kansas department for aging and disability services or other facility licensed under K.S.A. 2020 Supp. 39-2001 et seq., and amendments thereto, and other institutions included in subsection (a).

Sec. 5. K.S.A. 2020 Supp. 39-1433 is hereby amended to read as follows: 39-1433. (a) The Kansas department for children and families, upon receiving a report that an adult is being~~,~~ or has been ~~abused, neglected, or exploited or is in need of protective services,~~ *harmed as a result of abuse, neglect or financial exploitation,* shall:

(1) *Immediately notify, in writing, the appropriate law enforcement agency* when a criminal act has occurred or ~~has appeared~~ *appears* to have occurred~~, immediately notify, in writing, the appropriate law enforcement agency~~;

(2) make a ~~personal~~ *face-to-face* visit with the involved adult:

(A) Within 24 hours when the information from the reporter indicates imminent danger to the health or welfare of the involved adult;

(B) within three working days for all reports of suspected abuse, when the information from the reporter indicates no imminent danger; *and*

(C) within five working days for all reports of neglect or *financial* exploitation when the information from the reporter indicates no imminent danger~~.~~*;*

(3) complete, within 30 working days of receiving a report *of abuse or neglect and 60 working days of receiving a report of financial exploitation*, a thorough investigation and evaluation to determine the situation relative to the condition of the involved adult and what action and services, if any, are required. The evaluation shall include, but not be limited to, consultation with those individuals having knowledge of the facts of the particular case. If conducting the investigation within *the corresponding* 30 *or 60* working days would interfere with an ongoing criminal investigation, the time period for the investigation shall be extended, but the investigation and evaluation shall be completed within 90 working days. If a finding is made prior to the conclusion of the criminal investigation, the investigation and evaluation may be reopened and a new finding made based on any additional evidence provided as a result of the criminal investigation. If the alleged perpetrator is licensed, registered or otherwise regulated by a state agency, such state agency ~~also~~ shall be notified upon completion of the investigation or sooner if such notification does not compromise the investigation~~.~~*; and*

(4) prepare, upon completion of the investigation of each case, a written assessment that shall include an analysis of whether there is or has been abuse, neglect or *financial* exploitation, recommended action, a determination of whether protective services are needed and any follow-up.

(b) The secretary for children and families shall forward any finding of abuse, neglect or *financial* exploitation alleged to have been committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state *regulatory* authority that regulates such provider. ~~The appropriate state regulatory authority may consider the finding in any disciplinary action taken with respect to the provider of services under the jurisdiction of such authority.~~

(c) *The secretary for children and families shall forward any substantiated finding of abuse, neglect or financial exploitation alleged to have been committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state regulatory authority, and such authority may consider the finding in any disciplinary action taken with respect to such provider under the jurisdiction of such authority.*

(d) The Kansas department for children and families shall inform the complainant, upon request of the complainant, that an investigation has been ~~made and if the allegations of abuse, neglect or exploitation have been substantiated, that corrective measures will be taken, upon completion of the investigation or sooner, if such measures do not jeopardize the investigation~~ *initiated*.

~~(d)~~*(e)* The Kansas department for children and families ~~may~~ *shall* inform the chief administrative ~~officer~~ *officers* of community facilities licensed pursuant to K.S.A. 2020 Supp. 39-2001 et seq., and amendments thereto, *and nursing facilities, nursing facilities for mental health, intermediate care facilities for people with intellectual disability, assisted living facilities, residential healthcare facilities and home plus as defined in K.S.A. 39-923, and amendments thereto,* of ~~confirmed~~ *substantiated* findings of resident abuse, neglect or *financial* exploitation.

Sec. 6. K.S.A. 39-1438 is hereby amended to read as follows: 39-1438. If an involved adult does not ~~consent to the receipt of~~ *agree to accept* reasonable and necessary protective services, or if such adult ~~withdraws the consent~~ *states during the course of service delivery that such adult does not want to proceed with such services*, such services shall not be provided or continued.

Sec. 7. K.S.A. 39-1441 is hereby amended to read as follows: 39-1441. The authority of the secretary under this act ~~shall include~~ *includes*, but is not limited to, the right to initiate or otherwise take those actions necessary to assure the health, safety and welfare of an involved adult, subject to any specific requirements for individual consent of the adult. The secretary may establish a toll-free telephone number for the reporting of instances of abuse, neglect or *financial* exploitation under this act.

Sec. 8. K.S.A. 2020 Supp. 39-1443 is hereby amended to read as follows: 39-1443. (a) ~~*Investigation of adult abuse.*~~ The Kansas department

for children and families and law enforcement officers shall have the duty to receive and investigate reports of adult abuse, neglect~~,~~ *or financial* exploitation ~~or fiduciary abuse~~ for the purpose of determining whether the report is valid and whether action is required to protect the adult from further abuse ~~or~~, neglect *or financial exploitation*. If the department and such officers determine that no action is necessary to protect the adult but that a criminal prosecution should be considered, the department and such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) ~~*Joint investigations.*~~ *(1)* When a report of ~~adult neglect~~, adult abuse, *neglect or financial* exploitation ~~or fiduciary abuse~~ indicates~~:~~ ~~(1)~~ that there is serious physical injury to or serious deterioration or sexual abuse or *financial* exploitation of the adult~~;~~ and ~~(2)~~that action may be required to protect the adult, the investigation may be conducted as a joint effort between the Kansas department for children and families and the appropriate law enforcement agency or agencies, with a free exchange of information between such agencies.

(2) Upon completion of the investigation by the law enforcement agency, a full report shall be provided to the Kansas department for children and families.

(c) ~~*Coordination of investigations by county or district attorney.*~~ If a dispute develops between agencies investigating a reported case of adult abuse, neglect~~,~~ *or financial* exploitation ~~or fiduciary abuse~~, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(d) ~~*Investigations concerning certain facilities.*~~ Any investigation by a law enforcement agency involving a facility subject to licensing or regulation by the secretary of health and environment shall be reported promptly to the ~~state~~ secretary of health and environment, upon conclusion of the investigation or sooner if such report does not compromise the investigation.

(e) ~~*Cooperation between agencies.*~~ Law enforcement agencies and the Kansas department for children and families shall assist each other in taking action ~~which~~ *that* is necessary to protect the adult regardless of which party conducted the initial investigation.

Sec. 9. K.S.A. 75-723 is hereby amended to read as follows: 75-723. (a) There is hereby created in the office of the attorney general an abuse, neglect and exploitation of persons unit.

(b) Within the limits of available resources, the unit may, in the attorney general's discretion:

(1) Participate in the prevention, detection, review and prosecution of abuse, neglect and exploitation of persons, whether financial or physical;

(2) conduct investigations of suspected criminal abuse, neglect or exploitation of persons;

(3) coordinate with and assist other law enforcement agencies, or participate in task forces or joint operations, in the investigation of suspected criminal abuse, neglect or exploitation of persons;

(4) coordinate with and assist the medicaid fraud and abuse division established by K.S.A. 75-725, and amendments thereto, in the prevention, detection and investigation of abuse, neglect and exploitation of persons;

(5) work with or participate in the Kansas internet crimes against children task force, and work with any exploited and missing child investigators and any other child crime investigators;

(6) assist in any investigation of child abuse or neglect conducted by a law enforcement agency pursuant to K.S.A. 2020 Supp. 38-2226, and amendments thereto; ~~and~~

(7) assist in any investigation of adult abuse, neglect, exploitation or fiduciary abuse conducted by a law enforcement agency pursuant to K.S.A. 2020 Supp. 39-1443, and amendments thereto*; and*

(8) assist in any investigation or discussion of any elder and dependent adult abuse multidisciplinary team pursuant to section 1, and amendments thereto.

(c) The unit shall give priority to preventing, detecting and investigating abuse, neglect or exploitation of adults who are senior citizens, disabled or otherwise vulnerable to abuse, neglect or exploitation.

(d) Except as provided by subsection (k), the information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law. Upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to substantiated or affirmed cases of abuse, neglect or exploitation of persons or cases in which the attorney general has reasonable suspicion to believe abuse, neglect or exploitation of persons has occurred which are received or generated by a state agency.

(e) Whenever a state agency reports a matter involving suspected abuse, neglect or exploitation of an adult to a law enforcement agency or a county or district attorney, such state agency shall simultaneously forward such report to the unit.

(f) Except for reports alleging only self-neglect, a state agency receiving reports of abuse, neglect or exploitation of adults shall forward to the unit:

(1) Within 10 days of substantiation, reports of findings concerning the substantiated abuse, neglect or exploitation of adults; and

(2) within 10 days of such denial, each report of an investigation in which such state agency was denied the opportunity or ability to conduct or complete a full investigation of abuse, neglect or exploitation of adults.

(g) On or before the first day of the regular legislative session each year, the unit shall submit to the legislature a written report of the unit's activities, investigations and findings for the preceding fiscal year.

(h) The attorney general shall adopt rules and regulations as deemed appropriate for the administration of this section.

(i) No state funds appropriated to support the provisions of the unit and expended to contract or enter into agreements with any third party shall be used by a third party to file any civil action against the state of Kansas or any agency of the state of Kansas. Nothing in this section shall prohibit the attorney general from initiating or participating in any civil action against any party.

(j) The attorney general may contract or enter into agreements with other agencies or organizations to provide services related to the attorney general's duties under this section or to the investigation or litigation of findings related to abuse, neglect or exploitation of persons.

(k) Notwithstanding any other provision of law, nothing shall prohibit the attorney general or the unit from distributing or utilizing only that information obtained pursuant to a confirmed case of abuse, neglect or exploitation or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation has occurred pursuant to this section with any third party under contract or agreement with the attorney general to carry out the provisions of this section.

(l) As used in this section:

(1) "Adult" means any person 18 years of age or older; and

(2) "state agency" means the Kansas department for children and families, Kansas department for aging and disability services or Kansas department of health and environment.

Sec. 10. K.S.A. 39-1438, 39-1441 and 75-723 and K.S.A. 2020 Supp. 39-1430, 39-1431, 39-1433 and 39-1443 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2021.

CHAPTER 82

HOUSE BILL No. 2390
(Amended by Chapter 113)

AN ACT concerning records and recordation; prohibiting the filing of certain liens or claims against real or personal property and creating criminal penalties; relating to disclosure of public records under the open records act; making permanent certain exceptions to disclosure; creating exemptions in the open records act for cybersecurity assessments, plans and vulnerabilities; restricting access to identifying information of local correctional officers or local detention officers and administrative hearing officers; amending K.S.A. 75-5664 and 75-5665 and K.S.A. 2020 Supp. 9-513c, 9-2209, 12-5374, 16-335, 17-1312e, 25-2309, 40-2,118, 40-4913, 45-217, 45-221, 45-229, 45-254, 58-4301 and 58-4302 and repealing the existing sections.

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

New Section 1. (a) It shall be unlawful for any person to:

(1) Cause to be presented to a recorder of record for filing in any public record any lien or claim against any real or personal property when such person knows or reasonably should know that such lien or claim is false or contains any materially false, fictitious or fraudulent statement or representation;

(2) cause to be presented to a recorder of record for filing in any public record any document that purports to assert a lien against real or personal property of any person or entity that is not expressly provided for by the constitution or laws of this state or of the United States, does not depend on the consent of the owner of the real or personal property affected and is not an equitable or constructive lien imposed by a court with jurisdiction created or established under the constitution or laws of this state or of the United States;

(3) cause to be presented to a recorder of record for filing in any public record any financing statement pursuant to article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, when such person knows or reasonably should know that the financing statement is not based on a bona fide security agreement or was not authorized or authenticated by the alleged debtor identified in the financing statement or an authorized representative of the alleged debtor;

(4) cause to be presented to a recorder of record for filing in any public record any document filed in an attempt to harass an entity, individual or public official, or obstruct a governmental operation or judicial proceeding, when such person knows or reasonably should know that the document contains false information; or

(5) violate a court order issued pursuant to K.S.A. 58-4301, and amendments thereto.

(b) Violation of this section is a severity level 8, nonperson felony.

(c) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 2. K.S.A. 2020 Supp. 9-513c is hereby amended to read as follows: 9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (c) or (d).

(b) All confidential information shall be the property of the state of Kansas and shall not be subject to disclosure except upon the written approval of the state bank commissioner.

(c) (1) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(2) The requirements under any federal or state law regarding the confidentiality of any information or material provided to the nationwide multi-state licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of confidentiality protections provided by federal and state laws.

(d) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(e) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(f) Nothing shall prohibit the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on such persons.

~~(g) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.~~

Sec. 3. K.S.A. 2020 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~~ *that* 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~~ *that* 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 representing governmental agencies ~~which~~ *that* 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~~ *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;

(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 such prosecutor's discretion, with or without such a referral, institute the appropriate criminal proceedings under 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 examination material shall also be confidential by law and privileged, shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action~~. The provisions of this paragraph shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021~~; and

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

(b) For the purpose of any examination, investigation or proceeding under this act, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, adduce evidence and require the production of any matter ~~which~~ *that* 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, notwithstanding that after the act or omission, the rule and regulation or written administrative interpretation may be determined by judicial or other authority to be invalid for any reason.

Sec. 4. K.S.A. 2020 Supp. 12-5374 is hereby amended to read as follows: 12-5374. (a) (1) Except for the amounts withheld by the LCPA pursuant to K.S.A. 2020 Supp. 12-5368(b), and amendments thereto, and any amounts withheld pursuant to K.S.A. 2020 Supp. 12-5364(l), and amendments thereto, not later than 30 days after the receipt of moneys from providers pursuant to K.S.A. 2020 Supp. 12-5370 and 12-5371, and amendments thereto, and the department pursuant to K.S.A. 2020 Supp. 12-5372, and amendments thereto, the LCPA shall distribute such moneys to the PSAPs. The amount of money distributed to the PSAPs in each county shall be based upon the amount of 911 fees collected from service users located in that county, based on place of primary use information provided by the providers, by using the following distribution method:

Population of county where PSAP is located	Percentage of collected 911 fees to distribute
Over 80,000	82%
65,000 to 79,999	85%
55,000 to 64,999	88%
45,000 to 54,999	91%
35,000 to 44,999	94%
25,000 to 34,999	97%
Less than 25,000	100%

(2) There shall be a minimum county distribution of $60,000 and no county shall receive less than $60,000 of direct distribution moneys. If there is more than one PSAP in a county then the direct distribution allocated to that county by population shall be deducted from the minimum county distribution and the difference shall be proportionately divided between the PSAPs in the county. All moneys remaining after distribu-

tion, moneys withheld pursuant to K.S.A. 2020 Supp. 12-5368(b)(1), and amendments thereto, and any moneys that cannot be attributed to a specific PSAP shall be transferred to the 911 operations fund.

(b) All fees remitted to the LCPA shall be deposited in the 911 state fund and for the purposes of this act be treated as if they are public funds, pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

(c) All moneys in the 911 state fund that have been collected from the prepaid wireless 911 fee shall be deposited in the 911 operations fund unless $3 million of such moneys have been deposited in any given year then all remaining moneys shall be distributed to the counties in an amount proportional to each county's population as a percentage share of the population of the state. For each PSAP within a county, such moneys shall be distributed to each PSAP in an amount proportional to the PSAP's population as a percentage share of the population of the county. If there is no PSAP within a county, then such moneys shall be distributed to the PSAP providing service to such county. Such moneys distributed to counties and PSAPs only shall be used for the uses authorized in K.S.A. 2020 Supp. 12-5375, and amendments thereto.

(d) The LCPA shall keep accurate accounts of all receipts and disbursements of moneys from the 911 fees.

(e) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to this act will be treated as proprietary records ~~which~~ *that* will be withheld from the public upon request of the party submitting such records.

~~(f) The provisions of subsection (e) shall expire on July 1, 2021, unless the legislature acts to reenact such provision. The provisions of subsection (e) shall be reviewed by the legislature prior to July 1, 2021.~~

Sec. 5. K.S.A. 2020 Supp. 16-335 is hereby amended to read as follows: 16-335. (a) Except as provided by this section, all information ~~which~~ *that* the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation, or the reporting by the cemetery corporation or the trustee, shall be deemed to be confidential information~~,~~ and shall not be disclosed by the secretary of state~~,~~ *or* any assistant, examiner or employee thereof, except to:

(1) Officers and the members of the board of directors of the cemetery corporation being audited;

(2) the attorney general, when in the opinion of the secretary of state the same should be disclosed; and

(3) the appropriate official for the municipality in which the cemetery resides when in the opinion of the secretary of state the same should be disclosed.

(b) Upon request, the secretary of state may disclose to any person whether a cemetery corporation maintains a cemetery merchandise trust

fund under K.S.A. 16-322, and amendments thereto, and whether such funds are maintained in compliance with the provisions of such laws.

(c) ~~The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.~~

~~(d)~~ This section shall be *a* part of and supplemental to article 3 of chapter 16 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 6. K.S.A. 2020 Supp. 17-1312e is hereby amended to read as follows: 17-1312e. (a) Except as provided by this section, all information ~~which~~ *that* the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation, or the reporting by the cemetery corporation or the trustee, shall be deemed to be confidential information~~,~~ and shall not be disclosed by the secretary of state~~,~~ *or* any assistant, examiner or employee thereof, except to:

(1) Officers and the members of the board of directors of the cemetery corporation being audited;

(2) the attorney general, when in the opinion of the secretary of state the same should be disclosed; and

(3) the appropriate official for the municipality in which the cemetery resides when in the opinion of the secretary of state the same should be disclosed.

(b) Upon request, the secretary of state may disclose to any person whether a cemetery corporation maintains a permanent maintenance fund under K.S.A. 17-1311, and amendments thereto, and whether such funds are maintained in compliance with the provisions of such laws.

~~(c) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.~~

Sec. 7. K.S.A. 2020 Supp. 25-2309 is hereby amended to read as follows: 25-2309. (a) Any person may apply in person, by mail, through a voter registration agency, or by other delivery to a county election officer to be registered. Such application shall be made on: (1) A form approved by the secretary of state, ~~which~~ *and such form* shall be provided by a county election officer or chief state election official upon request in person, by telephone or in writing; or (2) the national mail voter registration form issued pursuant to federal law.

Such application shall be signed by the applicant under penalty of perjury and shall contain the original signature of the applicant or the computerized, electronic or digitized transmitted signature of the applicant. A signature may be made by mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding. A signature may be made by another person at the voter's direction if the signature reflects such voter's intention.

(b) Applications made under this section shall give voter eligibility requirements and such information as is necessary to prevent duplicative voter registrations and enable the relevant election officer to assess the eligibility of the applicant and to administer voter registration, including, but not limited to, the following data to be kept by the relevant election officer as provided by law:

(1) Name;

(2) place of residence, including specific address or location, and mailing address if the residence address is not a permissible postal address;

(3) date of birth;

(4) sex;

(5) the last four digits of the person's social security number or the person's full driver's license or nondriver's identification card number;

(6) telephone number, if available;

(7) naturalization data~~(~~, if applicable~~)~~;

(8) if applicant has previously registered or voted elsewhere, residence at time of last registration or voting;

(9) when present residence established;

(10) name under which applicant last registered or voted, if different from present name;

(11) an attestation that the applicant meets each eligibility requirement;

(12) a statement that the penalty for submission of a false voter registration application is a maximum presumptive sentence of 17 months in prison;

(13) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes;

(14) a statement that if an applicant does register to vote, the office to which a voter registration application is submitted will remain confidential and will be used only for voter registration purposes;

(15) boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States, together with the question "Are you a citizen of the United States of America?";

(16) boxes for the county election officer or chief state election official to check to indicate whether the applicant has provided with the application the information necessary to assess the eligibility of the applicant, including such applicant's United States citizenship;

(17) boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day, together with the question "Will you be 18 years of age on or before election day?";

(18) in reference to paragraphs (15) and (17) the statement "If you checked 'no' in response to either of these questions, do not complete this form.";

(19) a statement that the applicant shall be required to provide identification when voting; and

(20) political party affiliation declaration, if any. An applicant's failure to make a declaration will result in the applicant being registered as an unaffiliated voter.

If the application discloses any previous registration in any other county or state, as indicated by paragraph (8) or (10), or otherwise, the county election officer shall upon the registration of the applicant, give notice to the election official of the place of former registration, notifying such official of applicant's present residence and registration, and authorizing cancellation of such former registration. This section shall be interpreted and applied in accordance with federal law. No eligible applicant whose qualifications have been assessed shall be denied registration.

(c) Any person who applies for registration through a voter registration agency shall be provided with, in addition to the application under subsection (b), a form ~~which~~ *that* includes:

(1) The question "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(2) a statement that if the applicant declines to register to vote, this decision will remain confidential and be used only for voter registration purposes;

(3) a statement that if the applicant does register to vote, information regarding the office to which the application was submitted will remain confidential and be used only for voter registration purposes; and

(4) if the agency provides public assistance: (i) The statement "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(ii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote, together with the statement "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(iii) the statement "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

(iv) the statement "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Kansas Secretary of State."

(d) If any person, in writing, declines to register to vote, the voter registration agency shall maintain the form prescribed by subsection (c).

(e) A voter registration agency shall transmit the completed registration application to the county election officer not later than five days after the date of acceptance. Upon receipt of an application for registration, the county election officer shall send, by nonforwardable mail, a notice of disposition of the application to the applicant at the postal delivery address shown on the application. If a notice of disposition is returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-2316c, and amendments thereto, shall occur.

(f) If an application is received while registration is closed, such application shall be considered to have been received on the next following day during which registration is open.

(g) A person who completes an application for voter registration shall be considered a registered voter when the county election officer adds the applicant's name to the county voter registration list.

(h) Any registered voter whose residence address is not a permissible postal delivery address shall designate a postal address for registration records. When a county election officer has reason to believe that a voter's registration residence is not a permissible postal delivery address, the county election officer shall attempt to determine a proper mailing address for the voter.

(i) Any registered voter may request that such person's residence address be concealed from public inspection on the voter registration list and on the original voter registration application form. Such request shall be made in writing to the county election officer, and shall specify a clearly unwarranted invasion of personal privacy or a threat to the voter's safety. Upon receipt of such a request, the county election officer shall take appropriate steps to ensure that such person's residence address is not publicly disclosed. Nothing in this subsection shall be construed as requiring or authorizing the secretary of state to include on the voter registration application form a space or other provision on the form that would allow the applicant to request that such applicant's residence address be concealed from public inspection.

(j) No application for voter registration shall be made available for public inspection or copying unless the information required by subsection (b)(5) has been removed or otherwise rendered unreadable.

(k) If an applicant fails to answer the question prescribed in subsection (b)(15), the county election officer shall send the application to the applicant at the postal delivery address given on the application, by nonforwardable mail, with a notice of incompleteness. The notice shall specify a period of time during which the applicant may complete the application in accordance with K.S.A. 25-2311, and amendments thereto, and be eligible to vote in the next election.

(l) The county election officer or secretary of state's office shall accept any completed application for registration, but an applicant shall not be

registered until the applicant has provided satisfactory evidence of United States citizenship. Evidence of United States citizenship as required in this section will be satisfied by presenting one of the documents listed in ~~subsections~~ *subsection* (l)(1) through (l)(13) in person at the time of filing the application for registration or by including a photocopy of one of the following documents with a mailed registration application. After a person has submitted satisfactory evidence of citizenship, the county election officer shall indicate this information in the person's permanent voter file. Evidence of United States citizenship shall be satisfied by providing one of the following, or a legible photocopy of one of the following documents:

(1) The applicant's driver's license or nondriver's identification card issued by the division of vehicles or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant's driver's license or nondriver's identification card that the person has provided satisfactory proof of United States citizenship;

(2) the applicant's birth certificate that verifies United States citizenship to the satisfaction of the county election officer or secretary of state;

(3) pertinent pages of the applicant's United States valid or expired passport identifying the applicant and the applicant's passport number, or presentation to the county election officer of the applicant's United States passport;

(4) the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States bureau of citizenship and immigration services by the county election officer or the secretary of state, pursuant to 8 U.S.C. § 1373(c);

(5) other documents or methods of proof of United States citizenship issued by the federal government pursuant to the immigration and nationality act of 1952~~, and amendments thereto~~;

(6) the applicant's bureau of Indian affairs card number, tribal treaty card number or tribal enrollment number;

(7) the applicant's consular report of birth abroad of a citizen of the United States of America;

(8) the applicant's certificate of citizenship issued by the United States citizenship and immigration services;

(9) the applicant's certification of report of birth issued by the United States department of state;

(10) the applicant's American Indian card, with KIC classification, issued by the United States department of homeland security;

(11) the applicant's final adoption decree showing the applicant's name and United States birthplace;

(12) the applicant's official United States military record of service showing the applicant's place of birth in the United States; or

(13) an extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States.

(m) If an applicant is a United States citizen but does not have any of the documentation listed in this section as satisfactory evidence of United States citizenship, such applicant may submit any evidence that such applicant believes demonstrates the applicant's United States citizenship.

(1) Any applicant seeking an assessment of evidence under this subsection may directly contact the elections division of the secretary of state by submitting a voter registration application or form as described by this section and any supporting evidence of United States citizenship. Upon receipt of this information, the secretary of state shall notify the state election board, as established under K.S.A. 25-2203, and amendments thereto, that such application is pending.

(2) The state election board shall give the applicant an opportunity for a hearing and an opportunity to present any additional evidence to the state election board. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing.

(3) The state election board shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. A decision of the state election board shall be determined by a majority vote of the election board.

(4) If an applicant submits an application and any supporting evidence prior to the close of registration for an election cycle, a determination by the state election board shall be issued at least five days before such election date.

(5) If the state election board finds that the evidence presented by such applicant constitutes satisfactory evidence of United States citizenship, such applicant will have met the requirements under this section to provide satisfactory evidence of United States citizenship.

(6) If the state election board finds that the evidence presented by an applicant does not constitute satisfactory evidence of United States citizenship, such applicant shall have the right to appeal such determination by the state election board by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the state election board shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is a national of the United States.

(n) Any person who is registered in this state on the effective date of this amendment to this section is deemed to have provided satisfactory

evidence of citizenship and shall not be required to resubmit evidence of citizenship.

(o) For purposes of this section, proof of voter registration from another state is not satisfactory evidence of United States citizenship.

(p) A registered Kansas voter who moves from one residence to another within the state of Kansas or who modifies such voter's registration records for any other reason shall not be required to submit evidence of United States citizenship.

(q) If evidence of citizenship is deemed to be unsatisfactory due to an inconsistency between the document submitted as evidence and the name or sex provided on the application for registration, such applicant may sign an affidavit:

(1) Stating the inconsistency or inconsistencies related to the name or sex, and the reason therefor; and

(2) swearing under oath that, despite the inconsistency, the applicant is the individual reflected in the document provided as evidence of citizenship. However, there shall be no inconsistency between the date of birth on the document provided as evidence of citizenship and the date of birth provided on the application for registration. If such an affidavit is submitted by the applicant, the county election officer or secretary of state shall assess the eligibility of the applicant without regard to any inconsistency stated in the affidavit.

(r) All documents submitted as evidence of citizenship shall be kept confidential by the county election officer or the secretary of state and maintained as provided by Kansas record retention laws. ~~The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.~~

(s) The secretary of state may adopt rules and regulations in order to implement the provisions of this section.

(t) Nothing in this section shall prohibit an applicant from providing, or the secretary of state or county election officer from obtaining satisfactory evidence of United States citizenship, as described in subsection ~~(1)~~ *(l)*, at a different time or in a different manner than an application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the secretary of state or county election officer as required by this section.

Sec. 8. K.S.A. 2020 Supp. 40-2,118 is hereby amended to read as follows: 40-2,118. (a) For purposes of this act a "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as

part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance ~~which~~ *that* such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.

(b) An insurer that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed shall provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may require.

(c) Any other person who has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed may provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may request.

(d) (1) Each insurer shall have antifraud initiatives reasonably calculated to detect fraudulent insurance acts. Antifraud initiatives may include fraud investigators, who may be insurer employees or independent contractors and an antifraud plan submitted to the commissioner ~~no~~ *not* later than July 1, 2007. Each insurer that submits an antifraud plan shall notify the commissioner of any material change in the information contained in the antifraud plan within 30 days after such change occurs. Such insurer shall submit to the commissioner in writing the amended antifraud plan.

~~The requirement for submitting any antifraud plan, or any amendment thereof, to the commissioner shall expire on the date specified in subsection (d)(2) unless the legislature reviews and reenacts the provisions of subsection (d)(2) prior to such date.~~

(2) Any antifraud plan, or any amendment thereof, submitted to the commissioner for informational purposes only shall be confidential and not be a public record and shall not be subject to discovery or subpoena in a civil action unless following an in camera review, the court determines that the antifraud plan is relevant and otherwise admissible under the rules of evidence set forth in article 4 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto. ~~The provisions of this paragraph shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.~~

(e) Except as otherwise specifically provided in *K.S.A. 44-5,125, and amendments thereto, and* K.S.A. 2020 Supp. 21-5812(a), and amendments thereto, ~~and K.S.A. 44-5,125, and amendments thereto,~~ a fraudulent insurance act shall constitute a severity level 6, nonperson felony if the amount involved is $25,000 or more; a severity level 7, nonperson felony if the amount involved is at least $5,000 but less than $25,000; a severity level

8, nonperson felony if the amount involved is at least $1,000 but less than $5,000; and a class C nonperson misdemeanor if the amount involved is less than $1,000. Any combination of fraudulent acts as defined in subsection (a) ~~which~~ *that* occur in a period of six consecutive months ~~which involves~~ *and that involve* $25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.

(f) In addition to any other penalty, a person who violates this statute shall be ordered to make restitution to the insurer or any other person or entity for any financial loss sustained as a result of such violation. An insurer shall not be required to provide coverage or pay any claim involving a fraudulent insurance act.

(g) For the purposes of this section:

(1) "Amount involved" means the greater of: (A) The actual pecuniary harm resulting from the fraudulent insurance act; (B) the pecuniary harm that was intended to result from the fraudulent insurance act; or (C) the intended pecuniary harm that would have been impossible or unlikely to occur, such as in a government sting operation or a fraud in which the claim for payment or other benefit pursuant to an insurance policy exceeded the allowed value. The aggregate dollar amount of the fraudulent claims submitted to the insurance company shall constitute prima facie evidence of the amount of intended loss and is sufficient to establish the aggregate amount involved in the fraudulent insurance act, if not rebutted; and

(2) "pecuniary harm" means harm that is monetary or that otherwise is readily measurable in money, and does not include emotional distress, harm to reputation or other non-economic harm.

(h) This act shall apply to all insurance applications, ratings, claims and other benefits made pursuant to any insurance policy.

Sec. 9. K.S.A. 2020 Supp. 40-4913 is hereby amended to read as follows: 40-4913. (a) (1) Each insurer shall notify the commissioner whenever such insurer terminates a business relationship with an insurance agent if:

(A) The termination is for cause;

(B) such insurance agent has committed any act ~~which~~ *that* would be in violation of any provision of K.S.A. 2020 Supp. 40-4909(a), and amendments thereto; or

(C) such insurer has knowledge that such insurance agent is engaged in any activity ~~which~~ *that* would be in violation of any provision of K.S.A. 2020 Supp. 40-4909(a), and amendments thereto.

(2) The notification shall:

(A) Be made in a format prescribed by the commissioner;

(B) be submitted to the commissioner within 30 days of the date of the termination of the business relationship; and

(C) contain:

(i) The name of the insurance agent; and

(ii) the reason for the termination of the business relationship with such insurer.

(3) Upon receipt of a written request from the commissioner, each insurer shall provide to the commissioner any additional data, documents, records or other information concerning the termination of the insurer's business relationship with such agent.

(4) Whenever an insurer discovers or obtains additional information ~~which~~ *that* would have been reportable under paragraph (1), the insurer shall forward such additional information to the commissioner within 30 days of its discovery.

(b) (1) Each insurer shall notify the commissioner whenever such insurer terminates a business relationship with an insurance agent for any reason not listed in subsection (a).

(2) The notification shall:

(A) Be made in a format prescribed by the commissioner;

(B) be submitted to the commissioner within 30 days of the date of the termination of the business relationship.

(3) Upon receipt of a written request from the commissioner, each insurer shall provide to the commissioner any additional data, documents, records or other information concerning the termination of the insurer's business relationship with such agent.

(4) Whenever an insurer discovers or obtains additional information ~~which~~ *that* would have been reportable under paragraph (1), the insurer shall forward such additional information to the commissioner within 30 days of its discovery.

(c) For the purposes of this section, the term "business relationship" ~~shall include~~ *includes* any appointment, employment, contract or other relationship under which such insurance agent represents the insurer.

(d) (1) No insurance entity, or any agent or employee thereof acting on behalf of such insurance entity, regulatory official, law enforcement official or the insurance regulatory official of another state who provides information to the commissioner in good faith pursuant to this section shall be subject to a civil action for damages as a result of reporting such information to the commissioner. For the purposes of this section, "insurance entity ~~shall mean~~" *means* any insurer, insurance agent or organization to which the commissioner belongs by virtue of the commissioner's office.

(2) Any document, material or other information in the control or possession of the department that is furnished by an insurance entity or an employee or agent thereof acting on behalf of such insurance entity, or obtained by the insurance commissioner in an investigation pursuant to this section shall be kept confidential by the commissioner. Such in-

formation shall not be made public or subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner pursuant to this act or any other provision of the insurance laws of this state.

(3) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be required to testify in any private civil action concerning any confidential documents, materials or information subject to paragraph (2).

(4) The commissioner may share or exchange any documents, materials or other information, including confidential and privileged documents referred to in subsection (d)(2), received in the performance of the commissioner's duties under this act, with:

(A) The NAIC;

(B) other state, federal or international regulatory agencies; and

(C) other state, federal or international law enforcement authorities.

(5) (A) The sharing or exchanging of documents, materials or other information under this subsection shall be conditioned upon the recipient's authority and agreement to maintain the confidential and privileged status, if any, of the documents, materials or other information being shared or exchanged.

(B) No waiver of an existing privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized by subsection (d)(1).

(6) The commissioner of insurance is hereby authorized to adopt such rules and regulations establishing protocols governing the exchange of information as may be necessary to implement and carry out the provisions of this act.

(e) ~~The provisions of subsection (d)(2) shall expire on July 1, 2021, unless the legislature acts to reenact such provision. The provisions of subsection (d)(2) shall be reviewed by the legislature prior to July 1, 2021.~~

~~(f)~~ For the purposes of this section, "insurance entity ~~shall mean~~" *means* any insurer, insurance agent or organization to which the commissioner belongs by virtue of the commissioner's office.

~~(g)~~*(f)* Any insurance entity, including any authorized representative of such insurance entity, that fails to report to the commissioner as required under the provisions of this section or that is found by a court of competent jurisdiction to have failed to report in good faith, after notice and hearing, may have its license or certificate of authority suspended or revoked and may be fined in accordance with K.S.A. 2020 Supp. 40-4909, and amendments thereto.

Sec. 10. K.S.A. 2020 Supp. 45-217 is hereby amended to read as follows: 45-217. As used in the open records act, unless the context otherwise requires:

(a) "Business day" means any day other than a Saturday, Sunday or day designated as a holiday by the congress of the United States, by the legislature or governor of this state or by the respective political subdivision of this state.

(b) "Clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person, including information that may pose a risk to a person or property and is not of legitimate concern to the public.

(c) "Criminal investigation records" means: (1) Every audio or video recording made and retained by law enforcement using a body camera or vehicle camera as defined by K.S.A. 2020 Supp. 45-254, and amendments thereto; and (2) records of an investigatory agency or criminal justice agency as defined by K.S.A. 22-4701, and amendments thereto, compiled in the process of preventing, detecting or investigating violations of criminal law, but does not include police blotter entries, court records, rosters of inmates of jails or other correctional or detention facilities or records pertaining to violations of any traffic law other than vehicular homicide as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2020 Supp. 21-5406, and amendments thereto.

(d) "Custodian" means the official custodian or any person designated by the official custodian to carry out the duties of custodian of this act.

(e) *"Cybersecurity assessment" means an investigation undertaken by a person, governmental body or other entity to identify vulnerabilities in cybersecurity plans.*

(f) "Cybersecurity plan" means information about a person's information systems, network security, encryption, network mapping, access control, passwords, authentication practices, computer hardware or software or response to cybersecurity incidents.

(g) "Cybersecurity vulnerability" means a deficiency within computer hardware or software, or within a computer network or information system, that could be exploited by unauthorized parties for use against an individual computer user or a computer network or information system.

(h) "Official custodian" means any officer or employee of a public agency who is responsible for the maintenance of public records, regardless of whether such records are in the officer's or employee's actual personal custody and control.

~~(f)~~*(i)* (1) "Public agency" means the state or any political or taxing subdivision of the state or any office, agency or instrumentality thereof, or any other entity receiving or expending and supported in whole or in part

by the public funds appropriated by the state or by public funds of any political or taxing subdivision of the state.

(2) "Public agency" ~~shall~~ *does* not include:

(A) Any entity solely by reason of payment from public funds for property, goods or services of such entity; or (B) any municipal judge, judge of the district court, judge of the court of appeals or justice of the supreme court.

~~(g)~~*(j)* (1) "Public record" means any recorded information, regardless of form, characteristics or location, which is made, maintained or kept by or is in the possession of:

(A) Any public agency; or

(B) any officer or employee of a public agency pursuant to the officer's or employee's official duties and which is related to the functions, activities, programs or operations of any public agency.

(2) "Public record" ~~shall include~~ *includes*, but *is* not ~~be~~ limited to, an agreement in settlement of litigation involving the Kansas public employees retirement system and the investment of moneys of the fund.

(3) Notwithstanding the provisions of subsection ~~(g)~~ *(j)*(1), "public record" ~~shall~~ *does* not include:

(A) Records ~~which~~ *that* are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds. As used in this subparagraph, "private person" ~~shall~~ *does* not include an officer or employee of a public agency who is acting pursuant to the officer's or employee's official duties;

(B) records ~~which~~ *that* are made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state; or

(C) records of employers related to the employer's individually identifiable contributions made on behalf of employees for workers compensation, social security, unemployment insurance or retirement. The provisions of this subparagraph shall not apply to records of employers of lump-sum payments for contributions as described in this subparagraph paid for any group, division or section of an agency.

~~(h)~~*(k)* "Undercover agent" means an employee of a public agency responsible for criminal law enforcement who is engaged in the detection or investigation of violations of criminal law in a capacity where such employee's identity or employment by the public agency is secret.

Sec. 11. K.S.A. 2020 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to

information submitted to the committee pursuant to K.S.A. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records ~~which~~ *that* are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records ~~which~~ *that* pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information ~~which~~ *that* would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information ~~which~~ *that* would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records ~~which~~ *that* show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information ~~which~~ *that* 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, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of ~~paragraphs~~ *subparagraphs* (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, *if disclosure would jeopardize public safety, including records of cybersecurity plans, cybersecurity assessments and cybersecurity vulnerabilities or procedures related to cybersecurity plans, cybersecurity assessments and cybersecurity vulnerabilities*, or plans, drawings, specifications or related information for any building or facility ~~which~~ *that* is used for purposes requiring security measures in or around the building or facility or ~~which~~ *that* is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence ~~which~~ *that* is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or ~~which~~ *that* is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information ~~which~~ *that* the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications ~~which~~ *that* are prepared by a person other than an employee of a public agency or records ~~which~~ *that* are the property of a private person.

(19) Well samples, logs or surveys ~~which~~ *that* the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers~~, which records~~ *that* pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body ~~which~~ *that* has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers~~, which records~~ *that* pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body ~~which~~ *that* has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records ~~which~~ *that* pertain to identifiable individuals.

(24) Records ~~which~~ *that* are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records ~~which~~ *that* represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information ~~which~~ *that* specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business

or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record ~~which~~ *that* is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and ~~which~~ *that* is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information ~~which~~ *that* would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to K.S.A. 40-409(b), and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under K.S.A. 40-2,156(a), and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third-party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital ~~which~~ *that* the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, do-

mestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers, DD Form 214. Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.

(48) Policy information provided by an insurance carrier in accordance with K.S.A. 44-532(h)(1), and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.

(49) An individual's e-mail address, cell phone number and other contact information ~~which~~ *that* has been given to the public agency for the purpose of public agency notifications or communications ~~which~~ *that* are widely distributed to the public.

(50) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to the Kansas 911 act~~, and amendments thereto,~~ upon request of the party submitting such records.

(51) Records of a public agency on a public website ~~which~~ *that* are searchable by a keyword search and identify the home address or home ownership of: A law enforcement officer as defined in K.S.A. 2020 Supp. 21-5111, and amendments thereto~~,~~*;* *a* parole officer~~,~~*;* *a* probation officer~~,~~*;* *a* court services officer ~~or~~*;* *a* community correctional services officer*; a local correctional officer or local detention officer; a federal judge; a justice of the supreme court; a judge of the court of appeals; a district judge; a district magistrate judge; a municipal judge; a presiding officer who conducts hearings pursuant to the Kansas administrative procedure act; an administrative law judge employed by the office of administrative hearings; a member of the state board of tax appeals; an administrative law judge who conducts hearings pursuant to the workers compensation act; a member of the workers' compensation appeals board; the United States attorney for the district of Kansas; an assistant United States attorney; a special assistant United States attorney; the attorney general; an assistant attorney general; a special assistant attorney general; a county attorney; an assistant county attorney; a special assistant county attorney; a district attorney; an assistant district attorney; a special assistant district attorney; a city attorney; an assistant city attorney; or a special assistant city attorney*. Such ~~individual officer~~ *person* shall file with the custodian of such record a request to have such ~~officer's~~ *person's* identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such ~~officer's~~ *person's* identifying information from such public access. Such restriction shall expire after five years and such ~~officer~~ *person* may file with the custodian of such record a new request for restriction at any time.

~~(52) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a federal judge, a justice of the supreme court, a judge of the court of appeals, a district judge, a district magistrate judge, a municipal judge, the United States attorney for the district of Kansas, an assistant United States attorney, a special assistant United States attorney, the attorney general, an assistant attorney general, a special assistant attorney general, a county attorney, an assistant county attorney, a special assistant county attorney, a district attorney, an assistant district attorney, a special assistant district attorney, a city attorney, an assistant city attorney or a special assistant city attorney. Such person shall file with the custodian of such record a request to have such person's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such person's identifying information from such public access. Such restriction shall expire after five years and such person may file with the custodian of such record a new request for restriction at any time.~~

~~(53)~~ Records of a public agency that would disclose the name, home address, zip code, e-mail address, phone number or cell phone number or other contact information for any person licensed to carry concealed handguns or of any person who enrolled in or completed any weapons training in order to be licensed or has made application for such license under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, shall not be disclosed unless otherwise required by law.

~~(54)~~*(53)* Records of a utility concerning information about cyber security threats, attacks or general attempts to attack utility operations provided to law enforcement agencies, the state corporation commission, the federal energy regulatory commission, the department of energy, the southwest power pool, the North American electric reliability corporation, the federal communications commission or any other federal, state or regional organization that has a responsibility for the safeguarding of telecommunications, electric, potable water, waste water disposal or treatment, motor fuel or natural gas energy supply systems.

~~(55)~~*(54)* Records of a public agency containing information or reports obtained and prepared by the office of the state bank commissioner in the course of licensing or examining a person engaged in money transmission business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall not be disclosed except pursuant to K.S.A. 9-513c, and amendments thereto, or unless otherwise required by law.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer ~~which~~ *that* may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" ~~shall~~ *does* not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material ~~which~~ *that* is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record ~~which~~ *that* is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an iden-

tifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions ~~which~~ *that* are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record ~~which~~ *that* pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record ~~which~~ *that* has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 12. K.S.A. 2020 Supp. 45-229 is hereby amended to read as follows: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

(1) The public record is of a sensitive or personal nature concerning individuals;

(2) the public record is necessary for the effective and efficient administration of a governmental program; or

(3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five

years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception that will expire in the following year that 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 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 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 that would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of such 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 that is used to protect or further a business advantage over those who do not know or use it, if the disclosure of such 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) 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 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, 72-2232, 72-3438, 72-6116, 72-6267, 72-9934, 73-1228, 74-2424, 74-2433f, 74-32,419, 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, 76-12c03, 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 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, 72-3415, 74-50,217 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 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 that have been reviewed during the 2016 legislative session are hereby continued in existence: 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 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 2016 and that have been reviewed during the 2017 legislative session are hereby continued in existence: 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 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, 72-8268, 75-712 and 75-5366.

(n) 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 that have been reviewed during the 2018 legislative session are hereby continued in existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832, 65-6834, 75-7c06 and 75-7c20.

(o) 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) that have been reviewed during the 2019 legislative session are hereby continued in existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d) and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article 6(d) of 65-6230, 72-6314(a) and 74-7047(b).

(p) 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) that have been reviewed during the 2020 legislative session are hereby continued in existence: 38-2310(c), 40-409(j)(2), 40-6007(a), 45-221(a)(52), 46-1129, 59-29a22(b)(10) and 65-6747.

(q) 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) that have been reviewed during the 2021 legislative session are hereby continued in existence: 22-2302(c)(4)(J) and (c)(6)(B), 22-2502(e)(4)(J) and (e)(6)(B) and 65-6111(d)(4).

Sec. 13. K.S.A. 2020 Supp. 45-254 is hereby amended to read as follows: 45-254. (a) Every audio or video recording made and retained by law enforcement using a body camera or a vehicle camera shall be considered a criminal investigation record as defined in K.S.A. 45-217, and amendments thereto. ~~The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021.~~

(b) In addition to any disclosure authorized pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto, a person described in subsection (c) may make a request in accordance with procedures adopted under K.S.A. 45-220, and amendments thereto, to listen to an audio recording or to view a video recording made by a body camera or a vehicle camera. The law enforcement agency shall allow the person to listen to the requested audio recording or to view the requested video recording within 20 days after making the request, and may charge a reasonable fee for such services provided by the law enforcement agency.

(c) Any of the following may make a request under subsection (b):

(1) A person who is a subject of the recording;

(2) any parent or legal guardian of a person under 18 years of age who is a subject of the recording;

(3) an heir at law, when a decedent is a subject of the recording; and

(4) an attorney for a person described in this subsection.

(d) As used in this section:

(1) "Body camera" means a device that is worn by a law enforcement officer that electronically records audio or video of such officer's activities.

(2) "Heir at law" means:

(A) An executor or an administrator of the decedent;

(B) the spouse of the decedent, if living;

(C) if there is no living spouse of the decedent, an adult child of the decedent, if living; or

(D) if there is no living spouse or adult child of the decedent, a parent of the decedent, if living.

(3) "Vehicle camera" means a device that is attached to a law enforcement vehicle that electronically records audio or video of law enforcement officers' activities.

Sec. 14. K.S.A. 2020 Supp. 58-4301 is hereby amended to read as follows: 58-4301. (a) (1) Any person who owns real or personal property or an interest in real or personal property or who is the purported debtor or obligor and who has reason to believe that any document or instrument purporting to create a lien or claim against the real or personal property or an interest in real or personal property previously filed or submitted for filing and recording is fraudulent as defined in subsection (e) may complete and file, at any time without any time limitation, with the district court of the county in which such lien or claim has been filed or submitted for filing, or with the district court of the county in which the property or the rights appertaining thereto is situated, a motion for judicial review of the status of documentation or instrument purporting to create a lien or claim as provided in this section. Such motion shall be supported by the affidavit of the movant or the movant's attorney setting forth a concise statement of the facts upon which the claim for relief is based. Such mo-

tion shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(2) The completed form for ordinary certificate of acknowledgment shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(3) The clerk of the district court shall not collect a filing fee for filing a motion as provided in this section.

(b) The court's findings may be made solely on a review of the documentation or instrument attached to the motion and without hearing any testimonial evidence. The district court's review may be made ex parte without delay or notice of any kind. An appellate court shall expedite review of a district court's findings as provided in this section.

(c) (1) After review, the district court shall enter appropriate findings of fact and conclusions of law in a form as provided in subsection (d) regarding the documentation or instrument purporting to create a lien or claim, which shall be filed and indexed in the same filing office in the appropriate class of records in which the original documentation or instrument in question was filed.

(2) The court's findings of fact and conclusions of law may include an order setting aside the lien and directing the filing officer to nullify the lien instrument purporting to create the lien or claim. If the lien or claim was filed pursuant to the uniform commercial code, such order shall act as a termination statement filed pursuant to such code.

(3) The filing officer shall not collect a filing fee for filing a district court's findings of fact and conclusions of law as provided in this section.

(4) *If the court orders that the lien or claim is set aside, the court's findings of fact and conclusions of law shall also include:*

(A) An order prohibiting the person who filed such lien or claim from filing any future lien or claim with any filing officer without approval of the court that enters the order; and

(B) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties.

(5) A copy of the findings of fact and conclusions of law shall be mailed to the movant and the person who filed the lien or claim at the last known address of each person within seven days of the date that the findings of fact and conclusions of law is issued by the district court.

(d) The findings of fact and conclusions of law shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(e) As used in this section, a document or instrument is presumed to be fraudulent if the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and:

(1) Is not a document or instrument provided for by the constitution or laws of this state or of the United States;

(2) is not created by implied or express consent or agreement of the obligor, debtor or the owner of the real or personal property or an interest in the real or personal property, if required under the laws of this state, or by implied or express consent or agreement of an agent, fiduciary or other representative of that person; or

(3) is not an equitable, constructive or other lien imposed by a court with jurisdiction created or established under the constitution or laws of this state or of the United States.

(f) As used in this section, filing office or filing officer refers to the officer and office where a document or instrument as described in this section is appropriately filed as provided by law, including, but not limited to, the register of deeds, the secretary of state and the district court and filing officers related thereto.

Sec. 15. K.S.A. 2020 Supp. 58-4302 is hereby amended to read as follows: 58-4302. (a) After the court has made a finding that a lien or claim is fraudulent pursuant to K.S.A. 58-4301, and amendments thereto, the aggrieved person may bring a civil action for damages and injunctive relief against the person who filed or recorded the fraudulent documents. No action may be brought under this section against the filing office or filing officer as those terms are described in ~~subsection (f) of~~ K.S.A. 58-4301*(f)*, and amendments thereto.

(b) In such an action, the burden shall be on the plaintiff to prove by a preponderance of the evidence that the defendant knew or should have known that the documents filed or recorded were in violation of K.S.A. 58-4301, and amendments thereto.

(c) Such an action shall be bifurcated from an action under K.S.A. 58-4301, and amendments thereto, and service shall be made in accordance with article 3 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(d) The court shall award the prevailing party the costs of the proceeding arising under this section and may award the prevailing party reasonable ~~attorney's~~ *attorney* fees.

(e) After trial, and if the court makes a finding that a lien or claim is fraudulent pursuant to K.S.A. 58-4301, and amendments thereto, the court may:

(1) Order the defendant to pay actual and liquidated damages up to $10,000 or, if actual damages exceed $10,000, all actual damages, to the plaintiff for each violation of K.S.A. 58-4301, and amendments thereto;

(2) enjoin the defendant from filing any future liens or claims, or future liens or claims against persons specified by the court, with any filing officer without approval of the court that enters the order; and

(3) enjoin the defendant from filing any future liens or claims that would violate K.S.A. 58-4301, and amendments thereto.

(f) Any order set forth in subsection (e) shall be subject to modification and termination by the court that enters the order. *Such order shall also include a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties.*

~~(g) Each violation of any order set forth in subsection (e) may be considered contempt of court, punishable by a fine not to exceed $1,000, imprisonment in the county jail for not more than 120 days, or both such fine and imprisonment.~~

Sec. 16. K.S.A. 75-5664 is hereby amended to read as follows: 75-5664. (a) There is hereby established an advisory committee on trauma. The advisory committee on trauma shall be advisory to the secretary of health and environment and shall be within the division of public health of the department of health and environment as a part thereof.

(b) ~~On July 1, 2001, the advisory committee on trauma in existence immediately prior to July 1, 2001, is hereby abolished and a new advisory committee on trauma is created in accordance with this section. The terms of all members of the advisory committee on trauma in existence prior to July 1, 2001, are hereby terminated. On and after July 1, 2001,~~ The advisory committee on trauma shall be composed of 24 members representing both rural and urban areas of the state appointed as follows:

(1) Two members shall be persons licensed to practice medicine and surgery appointed by the governor. At least 30 days prior to the expiration of terms described in this section, for each member to be appointed under this section, the Kansas medical society shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(2) One member shall be licensed to practice osteopathic medicine appointed by the governor. At least 30 days prior to the expiration of the term of the member appointed under this section, the Kansas association of osteopathic medicine shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(3) Three members shall be representatives of hospitals appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas hospital association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(4) Two members shall be licensed professional nurses specializing in trauma care or emergency nursing appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas state nurses association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(5) Two members shall be emergency medical service providers as defined in K.S.A. 65-6112, and amendments thereto, who are on the roster of an ambulance service permitted by the board of emergency medical services. At least 30 days prior to the expiration of one of these positions, the Kansas emergency medical services association shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board. For the other member appointed under this section, at least 30 days prior to the expiration of the term of such member, the Kansas emergency medical technician association shall submit a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(6) Two members shall be administrators of ambulance services, one rural and one urban, appointed by the governor. At least 30 days prior to the expiration of the terms of such members, the Kansas emergency medical services association and Kansas emergency medical technician association in consultation shall submit to the governor a list of four persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board under this paragraph.

(7) Six members shall be representatives of regional trauma councils, one per council, appointed by the governor. At least 30 days prior to the expiration of one of these positions, the relevant regional trauma council shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making these appointments to the board.

(8) The secretary of health and environment or the secretary's designee of an appropriately qualified person shall be an ex officio representative of the department of health and environment.

(9) The chairperson of the emergency medical services board or the chairperson's designee shall be an ex officio member.

(10) Four legislators selected as follows shall be members: The chairperson and ranking minority member or their designees of the committee on health and human services of the house of representa-

tives, and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate shall be members.

(c) All members shall be residents of the state of Kansas. Particular attention shall be given so that rural and urban interests and geography are balanced in representation. Organizations that submit lists of names to be considered for appointment by the governor under this section shall insure that names of people who reside in both rural and urban areas of the state are among those submitted. At least one person from each congressional district shall be among the members. Of the members appointed under subsection (b)(1) through (b)(7): Six shall be appointed to initial terms of two years; six shall be appointed to initial terms of three years; and six shall be appointed to initial terms of four years. Thereafter members shall serve terms of four years and until a successor is appointed and qualified. In the case of a vacancy in the membership of the advisory committee, the vacancy shall be filled for the unexpired term in like manner as that provided in subsection (b).

(d) The advisory committee shall meet quarterly and at the call of the chairperson or at the request of a majority of the members. At the first meeting of the advisory committee after July 1 each year, the members shall elect a chairperson and vice-chairperson who shall serve for terms of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(e) The advisory committee shall be advisory to the secretary of health and environment on all matters relating to the implementation and administration of this act.

(f) (1) Any meeting of the advisory committee or any part of a meeting of the advisory committee during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. The advisory committee and officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) The advisory committee or an officer thereof may advise, report to and discuss activities, information and findings of the committee that relate to incidents of trauma injury or trauma care with the secretary of health and environment as provided in subsections (a) and (e) without waiver of the privilege provided by this subsection and K.S.A. 65-4915, and amendments thereto, and the records and findings of such committee or officer that are privileged under this subsection and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection and K.S.A. 65-4915, and amendments thereto~~, prior to July 1, 2021~~.

~~(3) The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.~~

(g) Members of the advisory committee attending meetings of the advisory committee or attending a subcommittee of the advisory committee or other authorized meeting of the advisory committee shall not be paid compensation but shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto.

Sec. 17. K.S.A. 75-5665 is hereby amended to read as follows: 75-5665. (a) The secretary of health and environment, after consultation with and consideration of recommendations from the advisory committee, shall:

(1) Develop rules and regulations necessary to carry out the provisions of this act, including fixing, charging and collecting fees from trauma facilities to recover all or part of the expenses incurred in the designation of trauma facilities pursuant to subsection (f);

(2) develop a statewide trauma system plan including the establishment of regional trauma councils, using the 2001 Kansas EMS-Trauma Systems Plan study as a guide and not more restrictive than state law. The secretary shall ensure that each council consist of at least six members. Members of the councils shall consist of persons chosen for their expertise in and commitment to emergency medical and trauma services. Such members shall be chosen from the region and include prehospital personnel, physicians, nurses and hospital personnel involved with the emergency medical and trauma services and a representative of a county health department. The plan should:

(A) Maximize local and regional control over decisions relating to trauma care;

(B) minimize bureaucracy;

(C) adequately protect the confidentiality of proprietary and personal health information;

(D) promote cost effectiveness;

(E) encourage participation by groups affected by the system;

(F) emphasize medical direction and involvement at all levels of the system;

(G) rely on accurate data as the basis for system planning and development; and

(H) facilitate education of health care providers in trauma care;

(3) plan, develop and administer a trauma registry to collect and analyze data on incidence, severity and causes of trauma and other pertinent information ~~which~~ *that* may be used to support the secretary's decision-making and identify needs for improved trauma care;

(4) provide all technical assistance to the regional councils as necessary to implement the provisions of this act;

(5) collect data elements for the trauma registry that are consistent with the recommendations of the American college of surgeons committee on trauma and centers for disease control;

(6) designate trauma facilities by level of trauma care capabilities after considering the American college of surgeons committee on trauma standards and other states' standards except that trauma level designations shall not be based on criteria that place practice limitations on registered nurse anesthetists which are not required by state law;

(7) develop a phased-in implementation schedule for each component of the trauma system, including the trauma registry, which considers the additional burden placed on the emergency medical and trauma providers;

(8) develop standard reports to be utilized by the regional trauma councils and those who report data to the registry in performing their functions;

(9) assess the fiscal impact on all components of the trauma system, and thereafter recommend other funding sources for the trauma system and trauma registry;

(10) prepare and submit an annual budget in accordance with the provisions of this act. Such budget shall include costs for the provision of technical assistance to the regional trauma councils and the cost of developing and maintaining the trauma registry and analyzing and reporting on the data collected; and

(11) enter into contracts as deemed necessary to carry out the duties and functions of the secretary under this act.

(b) (1) Any meeting of a regional trauma council or any part of a meeting of such a council during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. A regional trauma council and the officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) A regional trauma council or an officer thereof may advise, report to and discuss activities, information and findings of the council which relate to incidents of trauma injury or trauma care with the secretary of health and environment and make reports as provided in this section without waiver of the privilege provided by this subsection and K.S.A. 65-4915, and amendments thereto, and the records and findings of such council or officer which are privileged under this subsection and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection and K.S.A. 65-4915, and amendments thereto.

~~(3) The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.~~

Sec. 18. K.S.A. 75-5664 and 75-5665 and K.S.A. 2020 Supp. 9-513c, 9-2209, 12-5374, 16-335, 17-1312e, 25-2309, 40-2,118, 40-4913, 45-217, 45-221, 45-229, 45-254, 58-4301 and 58-4302 are hereby repealed.

Sec. 19. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2021.

CHAPTER 83

HOUSE BILL No. 2143

AN ACT concerning sales taxation; relating to exemptions; extending the sunset date of the exemption of certain cash rebates on sales or leases of new motor vehicles; modifying the exemption for construction materials for certain educational institutions; defining nonprofit integrated community care organizations and providing an exemption therefor; providing an exemption for friends of hospice of Jefferson county; relating to returns and payment of tax by retailers; increasing sales tax collection thresholds; amending K.S.A. 79-3602, 79-3606 and 79-3607 and repealing the existing sections.

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

Section 1. K.S.A. 79-3602 is hereby amended to read as follows: 79-3602. Except as otherwise provided, as used in the Kansas retailers' sales tax act:

(a) "Agent" means a person appointed by a seller to represent the seller before the member states.

(b) "Agreement" means the multistate agreement entitled the streamlined sales and use tax agreement approved by the streamlined sales tax implementing states at Chicago, Illinois on November 12, 2002.

(c) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 0.05% or more of alcohol by volume.

(d) "Certified automated system (CAS)" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

(e) "Certified service provider (CSP)" means an agent certified under the agreement to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(f) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(g) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(h) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(i) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing. Delivery charges shall not include charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

(j) "Direct mail" means printed material delivered or distributed by United States mail or other delivery services to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. Direct mail does not include multiple items of printed material delivered to a single address.

(k) "Director" means the state director of taxation.

(l) "Educational institution" means any nonprofit school, college and university that offers education at a level above the 12th grade, and conducts regular classes and courses of study required for accreditation by, or membership in, the higher learning commission, the state board of education, or that otherwise qualify as an "educational institution," as defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall include: (1) A group of educational institutions that operates exclusively for an educational purpose; (2) nonprofit endowment associations and foundations organized and operated exclusively to receive, hold, invest and administer moneys and property as a permanent fund for the support and sole benefit of an educational institution; (3) nonprofit trusts, foundations and other entities organized and operated principally to hold and own receipts from intercollegiate sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution; and (4) nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution.

(m) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(n) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages or tobacco.

(o) "Gross receipts" means the total selling price or the amount received as defined in this act, in money, credits, property or other consideration valued in money from sales at retail within this state; and embraced within the provisions of this act. The taxpayer, may take credit in the report of gross receipts for: (1) An amount equal to the selling price of property returned by the purchaser when the full sale price thereof, including the tax collected, is refunded in cash or by credit; and (2) an amount equal to the allowance given for the trade-in of property.

(p) "Ingredient or component part" means tangible personal property ~~which~~ *that* is necessary or essential to, and ~~which~~ *that* is actually used in and becomes an integral and material part of tangible personal property or services produced, manufactured or compounded for sale by the producer, manufacturer or compounder in its regular course of business. The following items of tangible personal property are hereby declared to be ingredients or component parts, but the listing of such property shall not be deemed to be exclusive nor shall such listing be construed to be a restriction upon, or an indication of, the type or types of property to be included within the definition of "ingredient or component part" as herein set forth:

(1) Containers, labels and shipping cases used in the distribution of property produced, manufactured or compounded for sale ~~which~~ *that* are not to be returned to the producer, manufacturer or compounder for reuse.

(2) Containers, labels, shipping cases, paper bags, drinking straws, paper plates, paper cups, twine and wrapping paper used in the distribution and sale of property taxable under the provisions of this act by wholesalers and retailers and ~~which~~ *that* is not to be returned to such wholesaler or retailer for reuse.

(3) Seeds and seedlings for the production of plants and plant products produced for resale.

(4) Paper and ink used in the publication of newspapers.

(5) Fertilizer used in the production of plants and plant products produced for resale.

(6) Feed for animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber, fur, or the production of offspring for use for any such purpose or purposes.

(q) "Isolated or occasional sale" means the nonrecurring sale of tangible personal property, or services taxable hereunder by a person not engaged at the time of such sale in the business of selling such property or services. Any religious organization ~~which~~ *that* makes a nonrecurring sale of tangible personal property acquired for the purpose of resale shall be deemed to be not engaged at the time of such sale in the business of selling such property. Such term shall include: (1) Any sale by a bank, savings and loan institution, credit union or any finance company licensed under the provisions of the Kansas uniform consumer credit code of tangible personal property ~~which~~ *that* has been repossessed by any such entity; and (2) any sale of tangible personal property made by an auctioneer or agent on behalf of not more than two principals or households if such sale

is nonrecurring and any such principal or household is not engaged at the time of such sale in the business of selling tangible personal property.

(r) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(1) Lease or rental does not include: (A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of $100 or 1% of the total required payments; or

(C) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect or set-up the tangible personal property.

(2) Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1).

(3) This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the internal revenue code, the uniform commercial code, K.S.A. 84-1-101 et seq., and amendments thereto, or other provisions of federal, state or local law.

(4) This definition will be applied only prospectively from the effective date of this act and will have no retroactive impact on existing leases or rentals.

(s) "Load and leave" means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(t) "Member state" means a state that has entered in the agreement, pursuant to provisions of article VIII of the agreement.

(u) "Model 1 seller" means a seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(v) "Model 2 seller" means a seller that has selected a CAS to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(w) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least $500,000,000, has a

proprietary system that calculates the amount of tax due each jurisdiction and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection a seller includes an affiliated group of sellers using the same proprietary system.

(x) "Municipal corporation" means any city incorporated under the laws of Kansas.

(y) "Nonprofit blood bank" means any nonprofit place, organization, institution or establishment that is operated wholly or in part for the purpose of obtaining, storing, processing, preparing for transfusing, furnishing, donating or distributing human blood or parts or fractions of single blood units or products derived from single blood units, whether or not any remuneration is paid therefor, or whether such procedures are done for direct therapeutic use or for storage for future use of such products.

(z) "Persons" means any individual, firm, copartnership, joint adventure, association, corporation, estate or trust, receiver or trustee, or any group or combination acting as a unit, and the plural as well as the singular number; and shall specifically mean any city or other political subdivision of the state of Kansas engaging in a business or providing a service specifically taxable under the provisions of this act.

(aa) "Political subdivision" means any municipality, agency or subdivision of the state ~~which~~ *that* is, or shall hereafter be, authorized to levy taxes upon tangible property within the state or ~~which~~ *that* certifies a levy to a municipality, agency or subdivision of the state ~~which~~ *that* is, or shall hereafter be, authorized to levy taxes upon tangible property within the state. Such term also shall include any public building commission, housing, airport, port, metropolitan transit or similar authority established pursuant to law and the horsethief reservoir benefit district established pursuant to K.S.A. 82a-2201, and amendments thereto.

(bb) "Prescription" means an order, formula or recipe issued in any form of oral, written, electronic or other means of transmission by a duly licensed practitioner authorized by the laws of this state.

(cc) "Prewritten computer software" means computer software, including prewritten upgrades, ~~which~~ *that* is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications

or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software, except that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(dd) "Property which is consumed" means tangible personal property ~~which~~ *that* is essential or necessary to and ~~which~~ *that* is used in the actual process of and consumed, depleted or dissipated within one year in: (1) The production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property; (2) the providing of services; (3) the irrigation of crops, for sale in the regular course of business; or (4) the storage or processing of grain by a public grain warehouse or other grain storage facility, and which is not reusable for such purpose. The following is a listing of tangible personal property, included by way of illustration but not of limitation, ~~which~~ *that* qualifies as property ~~which~~ *that* is consumed:

(A) Insecticides, herbicides, germicides, pesticides, fungicides, fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals for use in commercial or agricultural production, processing or storage of fruit, vegetables, feeds, seeds, grains, animals or animal products whether fed, injected, applied, combined with or otherwise used;

(B) electricity, gas and water; and

(C) petroleum products, lubricants, chemicals, solvents, reagents and catalysts.

(ee) "Purchase price" applies to the measure subject to use tax and has the same meaning as sales price.

(ff) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(gg) "Quasi-municipal corporation" means any county, township, school district, drainage district or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds.

(hh) "Registered under this agreement" means registration by a seller with the member states under the central registration system provided in article IV of the agreement.

(ii) "Retailer" means a seller regularly engaged in the business of selling, leasing or renting tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment, and selling only to the user or consumer and not for resale.

(jj) "Retail sale" or "sale at retail" means any sale, lease or rental for any purpose other than for resale, sublease or subrent.

(kk) "Sale" or "sales" means the exchange of tangible personal property, as well as the sale thereof for money, and every transaction, conditional or otherwise, for a consideration, constituting a sale, including the sale or furnishing of electrical energy, gas, water, services or entertainment taxable under the terms of this act and including, except as provided in the following provision, the sale of the use of tangible personal property by way of a lease, license to use or the rental thereof regardless of the method by which the title, possession or right to use the tangible personal property is transferred. The term "sale" or "sales" shall not mean the sale of the use of any tangible personal property used as a dwelling by way of a lease or rental thereof for a term of more than 28 consecutive days.

(ll) (1) "Sales or selling price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller;

(C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(D) delivery charges; and

(E) installation charges.

(2) "Sales or selling price" includes consideration received by the seller from third parties if:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) one of the following criteria is met:

(i) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(ii) the purchaser identifies to the seller that the purchaser is a member of a group or organization entitled to a price reduction or discount. A

preferred customer card that is available to any patron does not constitute membership in such a group; or

(iii) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

(3) "Sales or selling price" shall not include:

(A) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(B) interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;

(C) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser;

(D) the amount equal to the allowance given for the trade-in of property, if separately stated on the invoice, billing or similar document given to the purchaser; and

(E) commencing on July 1, 2018, and ending on June 30, ~~2021~~ *2024*, cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale.

(mm) "Seller" means a person making sales, leases or rentals of personal property or services.

(nn) "Service" means those services described in and taxed under the provisions of K.S.A. 79-3603, and amendments thereto.

(oo) "Sourcing rules" means the rules set forth in K.S.A. 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments thereto, ~~which~~ *that* shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a particular retail sale.

(pp) "Tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam and prewritten computer software.

(qq) "Taxpayer" means any person obligated to account to the director for taxes collected under the terms of this act.

(rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or any other item that contains tobacco.

(ss) "Entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

(tt) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The

over-the-counter drug label includes: (1) A drug facts panel; or (2) a statement of the active ingredients with a list of those ingredients contained in the compound, substance or preparation. Over-the-counter drugs do not include grooming and hygiene products such as soaps, cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan lotions and screens.

(uu) "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing, directory assistance, vertical service and voice mail services.

(vv) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

(ww) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(xx) "Directory assistance" means an ancillary service of providing telephone number information or address information, or both.

(yy) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, ~~which~~ *that* offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(zz) "Voice mail service" means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(aaa) "Telecommunications service" means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point, or between or among points. The term telecommunications service includes such transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmissions, conveyance or routing without regard to whether such service is referred to as voice over internet protocol services or is classified by the federal communications commission as enhanced or value added. Telecommunications service does not include:

(1) Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;

(2) installation or maintenance of wiring or equipment on a customer's premises;

(3) tangible personal property;

(4) advertising, including, but not limited to, directory advertising;

(5) billing and collection services provided to third parties;

(6) internet access service;

(7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. § 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

(8) ancillary services; or

(9) digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ring tones.

(bbb) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name 800, 855, 866, 877 and 888 toll-free calling, and any subsequent numbers designated by the federal communications commission.

(ccc) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. 900 service does not include the charge for collection services provided by the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name 900 service, and any subsequent numbers designated by the federal communications commission.

(ddd) "Value-added non-voice data service" means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code or protocol of the information or data primarily for a purpose other than transmission, conveyance or routing.

(eee) "International" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a U.S. territory or possession.

(fff) "Interstate" means a telecommunications service that originates in one United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession.

(ggg) "Intrastate" means a telecommunications service that originates in one United States state or a United States territory or possession, and terminates in the same United States state or a United States territory or possession.

(hhh) "Cereal malt beverage" shall have the same meaning as such term is defined in K.S.A. 41-2701, and amendments thereto, except that for the purposes of the Kansas retailers sales tax act and for no other purpose, such term shall include beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act.

(iii) "Nonprofit integrated community care organization" means an entity that is:

(1) Exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(2) certified to participate in the medicare program as a hospice under 42 C.F.R. § 418 et seq. and focused on providing care to the aging and indigent population at home and through inpatient care, adult daycare or assisted living facilities and related facilities and services across multiple counties; and

(3) approved by the Kansas department for aging and disability services as an organization providing services under the program of all-inclusive care for the elderly as defined in 42 U.S.C. § 1396u-4 and regulations implementing such section.

Sec. 2. K.S.A. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes and electronic cigarettes as defined by K.S.A. 79-3301, and amendments thereto, including consumable material for such electronic cigarettes, cereal malt beverages and malt products as defined by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt, malt syrup and malt extract, that is not subject to taxation under the provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry services taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from regulated sports contests taxed pursuant to the Kansas professional regulated sports act, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital ~~or~~, public hospital authority ~~or~~, nonprofit blood, tissue or organ bank

or nonprofit integrated community care organization and used exclusively for state, political subdivision, hospital ~~or~~, public hospital authority ~~or~~, nonprofit blood, tissue or organ bank *or nonprofit integrated community care organization* purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business; or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation, *except that such exemption shall apply to the erection, construction, repair, enlargement or equipment of buildings used for human habitation by the cerebral palsy research foundation of Kansas located in Wichita, Kansas, and multi community diversified services, incorporated, located in McPherson, Kansas*;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, that would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school, educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is paid from funds of such political subdivision or district and that would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision or district. Nothing in this subsection or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be deemed to exempt the purchase of any construction

machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or any such district. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities that are to be leased to the donor. When any political subdivision of the state, district described in subsection (s), public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or department of corrections concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, district described in subsection (s), hospital or public hospital authority, school, educational institution or the contractor contracting with the department of correc-

tions for a correctional institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, that would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft sold to persons using directly or through an authorized agent such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft for use outside of the United States and sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of K.S.A. 79-3603(o), and amendments thereto;

(m) all sales of tangible personal property that become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property that is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number

for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "drug" means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of drugs used in the performance or induction of an abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the state board of healing arts;

(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by K.S.A. 74-5807(c), and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) "prosthetic device" means a replacement, corrective or supportive

device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body;

(s) except as provided in K.S.A. 82a-2101, and amendments thereto, all sales of tangible personal property or services purchased directly or indirectly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq., and amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a water supply district organized or operating under the authority of K.S.A. 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto, which property or services are used in the construction activities, operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto, and is equipped with a bed or cargo box for hauling materials, and shall also include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm machinery and equipment" includes precision farming equipment that is portable or is installed or purchased to be installed on farm machinery and equipment. "Precision farming equipment" includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of tangible personal property for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose, and all sales of food products by or on behalf of any such contractor or organization for any such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b, Second through Sixth. As used in this paragraph, "severing" means the same as defined in K.S.A. 79-4216(k), and amendments thereto. For all sales of natural gas, electricity and heat delivered through mains, lines or pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions of this subsection shall expire on December 31, 2005;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises occurring prior to January 1, 2006;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418, and amendments thereto;

(aa) all sales of materials and services applied to equipment that is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and that is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" mean the same as defined in K.S.A. 58-4202, and amendments thereto; and (2)

"sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased prior to January 1, 2012, except as otherwise provided, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business that meets the requirements established in K.S.A. 74-50,115, and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business, and all sales of tangible personal property or services purchased on or after January 1, 2012, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business that meets the requirements established in K.S.A. 74-50,115(e), and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. As used in this subsection, "business" and "retail business" mean the same as defined in K.S.A. 74-50,114, and amendments thereto. Project exemption certificates that have been previously issued under this subsection by the department of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not including K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012, and have not expired will be effective for the term of the project or two years from the effective date of the certificate, whichever occurs earlier. Project exemption certificates that are submitted to the department of revenue prior to January 1, 2012, and are found to qualify will be issued

a project exemption certificate that will be effective for a two-year period or for the term of the project, whichever occurs earlier;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" mean the same as defined in K.S.A. 58-4202, and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, "durable medical equipment" means equipment including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body, but does not include mobility enhancing equipment as defined in subsection (r), oxygen delivery equipment, kidney dialysis equipment or enteral feeding systems;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based facility for people with intellectual disability or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 2020 Supp. 39-2001 et seq., and amendments thereto, and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based facility for people with intellectual disability or mental

health center located in Riverton, Cherokee County, Kansas, that would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment that are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication

of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from off-site, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related peripheral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and

equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E); (F) all machinery and equipment used in surface mining activities as described in K.S.A. 49-601 et seq., and amendments thereto, beginning from the time a reclamation plan is filed to the acceptance of the completed final site reclamation.

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purposes at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such materials purchased by a nonprofit corporation which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low-income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization that is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property that will admit the purchaser thereof to any annual event sponsored by a nonprofit organization that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, except that for taxable years commencing after December 31, 2013, this subsection shall not apply

to any sales of such tangible personal property purchased by a nonprofit organization which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations that are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American heart association, Kansas affiliate, inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas alliance for the mentally ill, inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas mental illness awareness council for the purposes of advocacy for persons who are mentally ill and for education, research and support for them and their families;

(4) the American diabetes association Kansas affiliate, inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American lung association of Kansas, inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's disease and related disorders association, inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(7) the Kansas chapters of the Parkinson's disease association for the purpose of eliminating Parkinson's disease through medical research and public and professional education related to such disease;

(8) the national kidney foundation of Kansas and western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

(9) the heartstrings community foundation for the purpose of providing training, employment and activities for adults with developmental disabilities;

(10) the cystic fibrosis foundation, heart of America chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;

(11) the spina bifida association of Kansas for the purpose of providing financial, educational and practical aid to families and individuals with spina bifida. Such aid includes, but is not limited to, funding for medical devices, counseling and medical educational opportunities;

(12) the CHWC, Inc., for the purpose of rebuilding urban core neighborhoods through the construction of new homes, acquiring and renovating existing homes and other related activities, and promoting economic development in such neighborhoods;

(13) the cross-lines cooperative council for the purpose of providing social services to low income individuals and families;

(14) the dreams work, inc., for the purpose of providing young adult day services to individuals with developmental disabilities and assisting families in avoiding institutional or nursing home care for a developmentally disabled member of their family;

(15) the KSDS, Inc., for the purpose of promoting the independence and inclusion of people with disabilities as fully participating and contributing members of their communities and society through the training and providing of guide and service dogs to people with disabilities, and providing disability education and awareness to the general public;

(16) the lyme association of greater Kansas City, Inc., for the purpose of providing support to persons with lyme disease and public education relating to the prevention, treatment and cure of lyme disease;

(17) the dream factory, inc., for the purpose of granting the dreams of children with critical and chronic illnesses;

(18) the Ottawa Suzuki strings, inc., for the purpose of providing students and families with education and resources necessary to enable each child to develop fine character and musical ability to the fullest potential;

(19) the international association of lions clubs for the purpose of creating and fostering a spirit of understanding among all people for humanitarian needs by providing voluntary services through community involvement and international cooperation;

(20) the Johnson county young matrons, inc., for the purpose of promoting a positive future for members of the community through volunteerism, financial support and education through the efforts of an all volunteer organization;

(21) the American cancer society, inc., for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service;

(22) the community services of Shawnee, inc., for the purpose of providing food and clothing to those in need;

(23) the angel babies association, for the purpose of providing assistance, support and items of necessity to teenage mothers and their babies; and

(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;

(ww) all sales of tangible personal property purchased by the habitat for humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo that would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to ex-

emption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station that is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization that would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization.

When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization that is exempt from federal income taxation pursuant to section 501(c)(3) of

the federal internal revenue code of 1986, pursuant to a food distribution program that offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center that would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center, except that for taxable years commencing after December 31, 2013, this subsection shall not apply to any sales of such tangible personal property and services purchased by a primary care clinic or health center which performs any abortion, as defined in K.S.A. 65-6701, and amendments thereto. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment

thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax that would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and that do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation;

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas academy of science, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials;

(hhh) all sales of tangible personal property and services purchased by or on behalf of all domestic violence shelters that are member agencies of the Kansas coalition against sexual and domestic violence;

(iii) all sales of personal property and services purchased by an organization that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and such personal property and services are used by any such organization in the collection, storage and distribution of food products to nonprofit organizations that distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, that would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased

for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(jjj) all sales of dietary supplements dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "dietary supplement" means any product, other than tobacco, intended to supplement the diet that: (1) Contains one or more of the following dietary ingredients: A vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract or combination of any such ingredient; (2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or if not intended for ingestion, in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and (3) is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(lll) all sales of tangible personal property and services purchased by special olympics Kansas, inc. for the purpose of providing year-round sports training and athletic competition in a variety of olympic-type sports for individuals with intellectual disabilities by giving them continuing opportunities to develop physical fitness, demonstrate courage, experience joy and participate in a sharing of gifts, skills and friendship with their families, other special olympics athletes and the community, and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization;

(mmm) all sales of tangible personal property purchased by or on behalf of the Marillac center, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing psycho-social-biological and special education services to children, and all sales of any such property by or on behalf of such organization for such purpose;

(nnn) all sales of tangible personal property and services purchased by the west Sedgwick county-sunrise rotary club and sunrise charitable fund for the purpose of constructing a boundless playground which is an integrated, barrier free and developmentally advantageous play environment for children of all abilities and disabilities;

(ooo) all sales of tangible personal property by or on behalf of a public library serving the general public and supported in whole or in part with tax money or a not-for-profit organization whose purpose is to raise funds for or provide services or other benefits to any such public library;

(ppp) all sales of tangible personal property and services purchased by or on behalf of a homeless shelter that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal income tax code of 1986, and used by any such homeless shelter to provide emergency and transitional housing for individuals and families experiencing homelessness, and all sales of any such property by or on behalf of any such homeless shelter for any such purpose;

(qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose that would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers

from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(rrr) all sales of tangible personal property and services purchased by any county law library maintained pursuant to law and sales of tangible personal property and services purchased by an organization that would have been exempt from taxation under the provisions of this subsection if purchased directly by the county law library for the purpose of providing legal resources to attorneys, judges, students and the general public, and all sales of any such property by or on behalf of any such county law library;

(sss) all sales of tangible personal property and services purchased by catholic charities or youthville, hereinafter referred to as charitable family providers, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of charitable family providers for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for

the operation of services for charitable family providers for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by charitable family providers. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for charitable family providers. When charitable family providers contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to charitable family providers a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, charitable family providers shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(ttt) all sales of tangible personal property or services purchased by a contractor for a project for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility owned by a nonprofit museum that has been granted an exemption pursuant to subsection (qq), which such home or facility is located in a city that has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and amend-

ments thereto, and which such project is related to the purposes of K.S.A. 75-5071 et seq., and amendments thereto, and that would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing for the prevention and

treatment of child abuse and maltreatment as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of KCSL for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for KCSL for any such purpose that would be exempt from taxation under the provisions of this section if purchased directly by KCSL. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for KCSL. When KCSL contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to KCSL a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, KCSL shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(vvv) all sales of tangible personal property or services, including the renting and leasing of tangible personal property or services, purchased by jazz in the woods, inc., a Kansas corporation that is exempt from fed-

eral income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing jazz in the woods, an event benefiting children-in-need and other nonprofit charities assisting such children, and all sales of any such property by or on behalf of such organization for such purpose;

(www) all sales of tangible personal property purchased by or on behalf of the Frontenac education foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education support for students, and all sales of any such property by or on behalf of such organization for such purpose;

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, that would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in such facilities reported and paid by such

contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC charities, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose that would be exempt from taxation under the provisions of this section if purchased directly by TLC charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may

purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(zzz) all sales of tangible personal property purchased by the rotary club of shawnee foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended, used for the purpose of providing contributions to community service organizations and scholarships;

(aaaa) all sales of personal property and services purchased by or on behalf of victory in the valley, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing a cancer support group and services for persons with cancer, and all sales of any such property by or on behalf of any such organization for any such purpose;

(bbbb) all sales of entry or participation fees, charges or tickets by Guadalupe health foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for such organization's annual fundraising event which purpose is to provide health care services for uninsured workers;

(cccc) all sales of tangible personal property or services purchased by or on behalf of wayside waifs, inc., which is exempt from federal income

taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing such organization's annual fundraiser, an event whose purpose is to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children and efforts to reduce animal over-population and animal welfare services, and all sales of any such property, including entry or participation fees or charges, by or on behalf of such organization for such purpose;

(dddd) all sales of tangible personal property or services purchased by or on behalf of goodwill industries or Easter seals of Kansas, inc., both of which are exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education, training and employment opportunities for people with disabilities and other barriers to employment;

(eeee) all sales of tangible personal property or services purchased by or on behalf of all American beef battalion, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of educating, promoting and participating as a contact group through the beef cattle industry in order to carry out such projects that provide support and morale to members of the United States armed forces and military services;

(ffff) all sales of tangible personal property and services purchased by sheltered living, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing residential and day services for people with developmental disabilities or intellectual disability, or both, and all sales of any such property by or on behalf of sheltered living, inc., for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling homes and facilities for sheltered living, inc., for any such purpose that would be exempt from taxation under the provisions of this section if purchased directly by sheltered living, inc. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities for sheltered living, inc. When sheltered living, inc., contracts for the purpose of rehabilitating, constructing, maintaining, repairing, enlarging, furnishing or remodeling such homes and facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the

number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc., a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc., shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(gggg) all sales of game birds for which the primary purpose is use in hunting;

(hhhh) all sales of tangible personal property or services purchased on or after July 1, 2014, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business identified under the North American industry classification system (NAICS) subsectors 1123, 1124, 112112, 112120 or 112210, and the sale and installation of machinery and equipment purchased for installation at any such business. The exemption provided in this subsection shall not apply to projects that have actual total costs less than $50,000. When a person contracts for the construction, reconstruction, enlargement or remodeling of any such business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to the owner of the business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption

under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor of the contractor, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(iiii) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for Wichita children's home for any such purpose that would be exempt from taxation under the provisions of this section if purchased directly by Wichita children's home. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for Wichita children's home. When Wichita children's home contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to Wichita children's home a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, Wichita children's home shall be liable for the tax on all materials purchased for the project, and upon payment, it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that

for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

(jjjj) all sales of tangible personal property or services purchased by or on behalf of the beacon, inc., that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing those desiring help with food, shelter, clothing and other necessities of life during times of special need;

(kkkk) all sales of tangible personal property and services purchased by or on behalf of reaching out from within, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of sponsoring self-help programs for incarcerated persons that will enable such incarcerated persons to become role models for non-violence while in correctional facilities and productive family members and citizens upon return to the community;

(llll) all sales of tangible personal property and services purchased by Gove county healthcare endowment foundation, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of constructing and equipping an airport in Quinter, Kansas, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing and equipping an airport in Quinter, Kansas, for such organization, that would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing or equipping of facilities for such organization. When such organization shall contract for the purpose of constructing or equipping an airport in Quinter, Kansas, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials that will not be so incorporated in

such facilities reported and paid by such contractor to the director of taxation no later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(h), and amendments thereto. The provisions of this subsection shall expire and have no effect on and after July 1, 2019; ~~and~~

(mmmm) all sales of gold or silver coins; and palladium, platinum, gold or silver bullion. For the purposes of this subsection, "bullion" means bars, ingots or commemorative medallions of gold, silver, platinum, palladium, or a combination thereof, for which the value of the metal depends on its content and not the form*; and*

(nnnn) all sales of tangible personal property or services purchased by friends of hospice of Jefferson county, an organization that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the purpose of providing support to the Jefferson county hospice agency in end-of-life care of Jefferson county families, friends and neighbors, and all sales of entry or participation fees, charges or tickets by friends of hospice of Jefferson county for such organization's fundraising event for such purpose.

Sec. 3. On and after January 1, 2024, K.S.A. 79-3607 is hereby amended to read as follows: 79-3607. (a) Retailers shall make returns to the director at the times prescribed by this section in the manner prescribed by the director, including electronic filing, upon forms or format prescribed by the director stating: (1) The name and address of the retailer; (2) the total amount of gross sales of all tangible personal property and taxable services rendered by the retailer during the period for which the return is made; (3) the total amount received during the period for which the return is made on charge and time sales of tangible personal property made and taxable services rendered prior to the period for which the return is made; (4) deductions allowed by law from such total amount of gross sales and from total amount received during the period for which the return is made on such charge and time sales; (5) receipts during the period for which the return is made from the total amount of sales of tangible personal property and taxable services rendered during such period in the course of such business, after deductions allowed by law have been made; (6) receipts during the

period for which the return is made from charge and time sales of tangible personal property made and taxable services rendered prior to such period in the course of such business, after deductions allowed by law have been made; (7) gross receipts during the period for which the return is made from sales of tangible personal property and taxable services rendered in the course of such business upon the basis of which the tax is imposed. The return shall include such other pertinent information as the director may require. In making such return, the retailer shall determine the market value of any consideration, other than money, received in connection with the sale of any tangible personal property in the course of the business and shall include such value in the return. Such value shall be subject to review and revision by the director as hereinafter provided. Refunds made by the retailer during the period for which the return is made on account of tangible personal property returned to the retailer shall be allowed as a deduction under paragraph (4) ~~of this section~~ in case the retailer has theretofore included the receipts from such sale in a return made by such retailer and paid taxes therein imposed by this act. The retailer shall, at the time of making such return, pay to the director the amount of tax herein imposed, except as otherwise provided in this section. The director may extend the time for making returns and paying the tax required by this act for any period not to exceed 60 days under such rules and regulations as the secretary of revenue may prescribe. When the total tax for which any retailer is liable under this act, does not exceed the sum of ~~$400~~ *$1,000* in any calendar year, the retailer shall file an annual return on or before January 25 of the following year. When the total tax liability does not exceed ~~$4,000~~ *$5,000* in any calendar year, the retailer shall file returns quarterly on or before the 25th day of the month following the end of each calendar quarter. When the total tax liability exceeds ~~$4,000~~ *$5,000* in any calendar year, the retailer shall file a return for each month on or before the 25th day of the following month. ~~When the total tax liability exceeds $40,000 in any calendar year, the retailer shall be required to pay the sales tax liability for the first 15 days of each month to the director on or before the 25th day of that month. Any such payment shall accompany the return filed for the preceding month. A retailer will be considered to have complied with the requirements to pay the first 15 days' liability for any month if, on or before the 25th day of that month, the retailer paid 90% of the liability for that fifteen-day period, or 50% of such retailer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs computed at the rate applicable in the month in which the fifteen-day period occurs, and, in either case, paid any underpayment with the payment required on or before the 25th day of the following month. Such retailers shall pay their sales tax liabilities for the remainder of each such month at the time of filing the return for such month.~~ *When the total tax liability exceeds*

$50,000 in any calendar year, the retailer shall be required to pay the sales tax liability for the first 15 days of each month to the director on or before the 25th day of that month. Any such payment shall accompany the return filed for the preceding month. A retailer will be considered to have complied with the requirements to pay the first 15 days' liability for any month if, on or before the 25th day of that month, the retailer paid 90% of the liability for that 15-day period or 50% of such retailer's liability in the immediately preceding calendar year for the same month as the month in which the 15-day period occurs computed at the rate applicable in the month in which the 15-day period occurs, and, in either case, paid any underpayment with the payment required on or before the 25th day of the following month. Such retailers shall pay their sales tax liabilities for the remainder of each such month at the time of filing the return for such month. Determinations of amounts of liability in a calendar year for purposes of determining filing requirements shall be made by the director upon the basis of amounts of liability by those retailers during the preceding calendar year or by estimates in cases of retailers having no previous sales tax histories. The director is hereby authorized to modify the filing schedule for any retailer when it is apparent that the original determination was inaccurate.

(b) All model 1, model 2 and model 3 sellers are required to file returns electronically. Any model 1, model 2 or model 3 seller may submit its sales and use tax returns in a simplified format approved by the director. Any seller that is registered under the agreement, which does not have a legal requirement to register in this state, and is not a model 1, model 2 or model 3 seller, may submit its sales and use tax returns as follows:

(1) Upon registration, the director shall provide to the seller the returns required;

(2) seller shall file a return anytime within one year of the month of initial registration, and future returns are required on an annual basis in succeeding years; and

(3) in addition to the returns required in subsection (b)(2), sellers are required to submit returns in the month following any month in which they have accumulated state and local sales tax funds for this state in the amount of $1,600 or more.

Sec. 4. K.S.A. 79-3602 and 79-3606 are hereby repealed.

Sec. 5. On and after January 1, 2024, K.S.A. 79-3607 is hereby repealed.

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

Approved April 21, 2021.

Published in the *Kansas Register* May 6, 2021.

CHAPTER 84

HOUSE BILL No. 2405*

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; authorizing the issuance of revenue bonds to finance the unfunded actuarial pension liability of KPERS; providing requirements, limitations and procedures for the Kansas development finance authority, department of administration and the state finance council pertaining to such bonds.

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

Section 1. (a) The Kansas development finance authority is hereby authorized to issue one or more series of revenue bonds under the Kansas development finance act in an amount necessary to provide a deposit or deposits to the Kansas public employees retirement system in a total amount not to exceed $500,000,000 plus all amounts required to pay the cost of issuance of the bonds, including any credit enhancement, interest costs and provide any required reserves for the bonds. No bonds shall be issued until such issuance has been approved by a resolution of the state finance council. The principal amount, interest rates and final maturity of such revenue bonds and any bonds issued to refund such bonds or parameters for such principal amount, interest rates and final maturity shall be approved by a resolution of the state finance council, except that, for any one or more series of revenue bonds issued pursuant to this section, such interest rate, all inclusive cost, shall not exceed 4.3%. The bonds, and interest thereon, issued pursuant to this section shall be payable from moneys appropriated by the state for such purpose. The bonds, and interest thereon, issued pursuant to this section shall be obligations only of the authority and in no event shall such bonds constitute an indebtedness or obligation of the Kansas public employees retirement system or an indebtedness or obligation for which the faith and credit or any assets of the system are pledged. Neither the state nor the department of administration shall have the power to pledge the full faith and credit or taxing power of the state for debt service on any bonds issued pursuant to this section, and any payment by the department for such purpose shall be subject to and dependent on appropriations by the legislature. Any obligation of the state or the department for payment of debt service on bonds issued pursuant to this section shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas.

(b) As used in this section, "unfunded actuarial pension liability" means the unfunded actuarially accrued liability of the state for the state of Kansas' and participating employers' under K.S.A. 74-4931, and amendments thereto, portion of such liability of the Kansas public employees retirement system, determined as of the later of December 31,

2019, or the end of the most recent calendar year for which an actuarial valuation report is available and certified to the Kansas development finance authority by the executive director of the Kansas public employees retirement system.

(c) (1) The authority may pledge the contract or contracts authorized in subsection (d), or any part thereof, for the payment or redemption of the bonds, and covenant as to the use and disposition of moneys available to the authority for payments of the bonds. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section.

(2) The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to this section, after payment of any costs related to the issuance of such bonds, shall be paid by the authority to the Kansas public employees retirement system to be applied to the payment, in full or in part, of the unfunded actuarial pension liability as directed by the Kansas public employees retirement system.

(3) The state hereby pledges and covenants with the holders of any bonds issued pursuant to this section that it will not limit or alter the rights or powers vested in the authority by this section, nor limit or alter the rights or powers of the authority, the department of administration or the Kansas public employees retirement system, in any manner that would jeopardize the interest of the holders or any trustee of such holders or inhibit or prevent performance or fulfillment by the authority, the department of administration or the Kansas public employees retirement system with respect to the terms of any agreement made with the holders of the bonds or agreements made pursuant to this section, except that failure of the legislature to appropriate moneys for any purpose shall not be deemed a violation of this pledge and covenant. The department of administration is hereby specifically authorized to include this pledge and covenant in any agreement with the authority. The authority is hereby specifically authorized to include this pledge and covenant in any bond resolution, trust indenture or agreement for the benefit of the holders of the bonds.

(4) Revenue bonds may be issued pursuant to this section without obtaining the consent of any department, division, commission, board or agency of the state, other than the approvals of the state finance council required by this section, and without any other proceedings or the occurrence of any other conditions or things other than those proceedings, conditions or things that are specifically required by the Kansas development finance authority act.

(d) The department of administration and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in this section. The contract or contracts

shall provide for payment of the amounts required to be paid pursuant to this section and shall set forth the procedure for the transfer of moneys for the purpose of paying such moneys. The contract or contracts shall contain such terms and conditions, including principal amount, interest rates and final maturity as shall be approved by resolution of the state finance council and shall include, but not be limited to, terms and conditions necessary or desirable to provide for the repayment of and to secure any bonds of the authority issued pursuant to this section.

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

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

Approved April 21, 2021.

Published in the *Kansas Register* April 29, 2021.

CHAPTER 85

HOUSE BILL No. 2021

AN ACT concerning public safety officers, military personnel, prisoners of war and veterans; expanding educational benefits for spouses and dependents of such officers and personnel who are injured while performing service-related duties; authorizing the issuance of certain bonds; relating to the construction of a state veterans home; providing for the powers, duties and functions of the Kansas development finance authority, the department of administration and the state finance council pertaining to such bonds; amending K.S.A. 75-4364 and repealing the existing section.

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

New Section 1. (a) For the purpose of financing a capital improvement project relating to construction of a state veterans home facility located in northeast Kansas, including, but not limited to, Douglas, Jefferson, Leavenworth, Shawnee and Wyandotte counties, the Kansas development finance authority is hereby authorized to issue one or more series of revenue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 et seq., and amendments thereto, in a total amount not to exceed $10,500,000, plus all amounts required for costs of bond issuance, costs of insurance or credit enhancement, costs of interest on the bonds issued for such capital improvement project during the construction of such project and any required reserves for the payment of principal and interest on the bonds.

(b) The proceeds from the sale of any bonds, other than refunding bonds, issued pursuant to this section, after payment of any costs related to the issuance of such bonds, shall be paid by the Kansas development finance authority to the department of administration to be applied to the payment of costs of the capital improvement project authorized pursuant to this section as requested by the secretary of administration and by resolution of the Kansas development finance authority and shall constitute the state's required 35% match for the United States department of veterans affairs state veterans home construction grant program under 38 U.S.C. §§ 8131 through 8138, as in effect on July 1, 2021.

(c) On and after July 1, 2021, prior to the issuance of any bonds pursuant to this section, the capital improvement project described in subsection (a) is hereby approved for the department of administration for the purposes of K.S.A. 74-8905(b), and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority shall be approved by the Kansas development finance authority in accordance with K.S.A. 74-8901 et seq., amendments thereto, and the state finance council acting on this matter, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto, except that such approval also may be given when the legislature is in session.

(d) The department of administration shall only make expenditures from the moneys received from the issuance of any bonds pursuant to this section for those purposes set forth in subsection (a) for such capital improvement project.

(e) The debt service for any such bonds issued pursuant to this section shall be financed by appropriations from the state general fund or any appropriate special revenue fund or funds.

(f) The date of maturity on bonds issued pursuant to this section shall not be fixed for a period of time that exceeds 20 years from the date of issuance.

(g) The state hereby pledges and covenants with the holders of any bonds issued pursuant to the provisions of this section, that the state will not limit or alter the rights or powers vested in the Kansas development finance authority by this section, nor limit or alter the rights or powers of the authority, or the department of administration, in any matter that would jeopardize the interest of the holders, or any trustee of such holders, or inhibit or prevent performance or fulfillment by the Kansas development finance authority or the department of administration with respect to the terms of any agreement made with the holders of the bonds or agreements made pursuant to this section, except that the failure of the legislature to appropriate moneys for debt service on any bonds issued pursuant to this section shall not be deemed a violation of this pledge and covenant. The department of administration is hereby specifically authorized to include this pledge and covenant in any agreement with the Kansas development finance authority. The Kansas development finance authority is hereby specifically authorized to include this pledge and covenant in any bond resolution, trust indenture or agreement for the benefit of the holders of the bonds.

(h) Neither the state nor the department of administration shall have the power to pledge the full faith and credit or taxing power of the state for debt service on any bonds issued pursuant to this section, and any payment by the department of administration for such purpose shall be subject to and dependent on appropriations by the legislature. Any obligation of the state or the department of administration for payment of debt service on bonds issued pursuant to this section shall not be considered a debt or obligation of the state for the purpose of section 6 of article 11 of the constitution of the state of Kansas.

(i) Subject to the provisions of appropriation acts, the secretary of administration shall enter into pledge agreements with the Kansas development finance authority to pledge moneys for the payment of bonds issued pursuant to this section, which pledge shall be subject to the appropriation of moneys therefor.

Sec. 2. K.S.A. 75-4364 is hereby amended to read as follows: 75-4364. (a) As used in this section:

(1) "Dependent" means: (A) A birth child, adopted child or stepchild; or (B) any child other than the foregoing who is actually dependent in whole or in part on the individual and who is related to such individual by marriage or consanguinity.

(2) "Emergency medical service provider" means the same as defined in K.S.A. 65-6112, and amendments thereto.

(3) "Firefighter" means a person who is: (A) Employed by any city, county, township or other political subdivision of the state and who is assigned to the fire department thereof and engaged in the fighting and extinguishment of fires and the protection of life and property therefrom; or (B) a volunteer member of a fire district, fire department or fire company.

(4) "Kansas educational institution" means and includes community colleges, the municipal university, state educational institutions, the institute of technology at Washburn university and technical colleges.

(5) "Law enforcement officer" means a person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes wardens, superintendents, directors, security personnel, officers and employees of adult and juvenile correctional institutions, jails or other institutions or facilities for the detention of persons accused or convicted of crime, while acting within the scope of their authority.

(6) "Military service" means any active service in any armed service of the United States and any active state or federal service in the Kansas army or air national guard.

(7) "Prisoner of war" means any person who was a resident of Kansas at the time the person entered service of the United States armed forces and who, while serving in the United States armed forces, has been declared to be a prisoner of war, as established by the United States secretary of defense, after January 1, 1960.

(8) "Public safety officer" means a law enforcement officer~~, or~~, a firefighter~~, or~~, an emergency medical service provider *or a public safety employee*.

(9) "Resident of Kansas" means a person who is a domiciliary resident as defined by K.S.A. 76-729, and amendments thereto.

(10) "Spouse" means the spouse of a deceased public safety officer or deceased member of the military service who has not remarried.

(11) "State board" means the state board of regents.

(12) "Public safety employee" means any employee of a law enforcement office, sheriff's department, municipal fire department, volunteer and non-volunteer fire protection association, emergency medical services provider or correctional institution of the department of corrections.

(b) *(1)* Every Kansas educational institution shall provide for enrollment without charge of tuition or fees for:

~~(1)~~*(A)* Any *eligible* dependent or spouse of a public safety officer who*:*

(i) Was injured or disabled while performing duties as a public safety officer; or

(ii) died as the result of injury sustained while performing duties as a public safety officer ~~so long as such dependent or spouse is eligible~~;

~~(2)~~*(B)* any dependent or spouse of any resident of Kansas who*:*

(i) Died *or was injured or disabled* on or after September 11, 2001, while, and as a result of, serving in military service; *or*

(ii) is entitled to compensation for a service-connected disability of at least 80% because of a public statute administered by the department of veterans affairs or a military department as a result of injuries or accidents sustained in combat after September 11, 2001; and

~~(3)~~*(C)* any prisoner of war.

(2) Any such dependent or spouse and any prisoner of war shall be eligible for enrollment at a Kansas educational institution without charge of tuition or fees for not to exceed 10 semesters of undergraduate instruction, or the equivalent thereof, at all such institutions.

(c) Subject to appropriations therefor, any Kansas educational institution, at which enrollment, without charge of tuition or fees, of a prisoner of war or a dependent or spouse is provided for under subsection (b), may file a claim with the state board for reimbursement of the amount of such tuition and fees. *In any fiscal year, such reimbursement shall not exceed a total of $350,000.* The state board shall include in its budget estimates pursuant to K.S.A. 75-3717, and amendments thereto, a request for appropriations to cover tuition and fee claims pursuant to this section. The state board shall be responsible for payment of reimbursements to Kansas educational institutions upon certification by each such institution of the amount of reimbursement to which entitled. Payments to Kansas educational institutions shall be made upon vouchers approved by the state board and upon warrants of the director of accounts and reports. Payments may be made by issuance of a single warrant to each Kansas educational institution at which one or more eligible dependents or spouses or prisoners of war are enrolled for the total amount of tuition and fees not charged for enrollment at that institution. The director of accounts and reports shall cause such warrant to be delivered to the Kansas educational institution at which any such eligible dependents or spouses or prisoners of war are enrolled. If an eligible dependent or spouse or prisoner of war discontinues attendance before the end of any semester, after the Kansas educational institution has received payment under this subsection, the institution shall pay to the state the entire amount that such eligible dependent or spouse or prisoner of war would otherwise qualify to have

refunded, not to exceed the amount of the payment made by the state in behalf of such dependent or spouse or prisoner of war for the semester. All amounts paid to the state by Kansas educational institutions under this subsection shall be deposited in the state treasury and credited to the state general fund.

(d) The state board shall adopt rules and regulations for administration of the provisions of this section and shall determine the qualification of persons as dependents and spouses of public safety officers or United States military personnel and the eligibility of such persons for the benefits provided for under this section.

Sec. 3. K.S.A. 75-4364 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 21, 2021.

CHAPTER 86

HOUSE BILL No. 2401

AN ACT concerning the department of corrections; authorizing the secretary of corrections to enter agreements for public-private partnerships for projects for new or renovated buildings at correctional institutions for education, skills-building and spiritual needs programs; establishing a nonprofit corporation to receive gifts, donations, grants and other moneys and engage in fundraising projects for funding such projects; amending K.S.A. 75-3739 and repealing the existing section.

WHEREAS, The Legislature finds that it is in the public's interest to prepare incarcerated persons to be ready to meet Kansas workforce needs when released, by providing education and skills-building programs and services; and

WHEREAS, There is a public need for the construction or renovation of facilities that are used predominantly for education and skills-building programs and services for persons housed in adult correctional institutions, to prepare incarcerated persons for employment and successful reentry after incarceration; and

WHEREAS, It is in the public interest to authorize, encourage and incentivize public-private partnerships to support projects to raise funds for and construct or renovate buildings to provide space to deliver education and skills-building programs and services; and

WHEREAS, It is the intent of the Legislature to encourage investment in the state by private entities, to facilitate various bond financing mechanisms, private capital and other funding sources for constructing and upgrading buildings for education and skills-building programs at correctional institutions and to provide the greatest possible flexibility to public and private entities for entering public-private partnerships for that purpose; and

WHEREAS, It is the intent of the Legislature to encourage and enable partnerships with faith-based organizations to address the spiritual needs of incarcerated persons:

Now, therefore:

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

New Section 1. As used in K.S.A. 75-3739, and amendments thereto, and sections 1 through 5, and amendments thereto:

(a) "Private entity" means any partnership, firm, association, corporation, sole proprietorship or other business organization, whether organized for profit or not-for-profit and includes any faith-based organization.

(b) "Secretary" means the secretary of corrections.

(c) "Public-private partnership" means the relationship established between the department of corrections and a private entity by contracting for the performance of any combination of specified functions or responsibilities to develop, finance, construct or renovate a building at a

correctional institution where the department of corrections cost for development, finance, construction or renovation of such building does not exceed 25% of the total cost of the developing, financing, constructing or renovating such building.

(d) "Correctional institution" means the Lansing correctional facility, Hutchinson correctional facility, Topeka correctional facility, Norton correctional facility, Ellsworth correctional facility, Winfield correctional facility, Osawatomie correctional facility, Larned correctional mental health facility, Toronto correctional work facility, Stockton correctional facility, Wichita work release facility, El Dorado correctional facility, any juvenile correctional facility or institution as defined in K.S.A. 2020 Supp. 38-2302, and amendments thereto, and any other correctional institution established by the state for the confinement of adult or juvenile offenders under control of the secretary.

(e) "Public-private project" means the project to develop, finance, construct or renovate a building at a correctional institution pursuant to a public-private partnership.

(f) "Faith-based organization" means any religious, charitable and other organization as defined by article 17 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, or any other organization whose values are based on faith and beliefs, or both, that has a mission based on social values of the particular faith and whose members are from a particular faith group.

(g) "Spiritual needs" means any program or service that addresses any issue related to sincerely held religious beliefs.

New Sec. 2. (a) The secretary is hereby authorized to enter agreements with private entities for public-private project for the purpose of funding new or renovated buildings at a correctional institution for:

(1) Education and skills-building programs and services; and

(2) purposes of addressing the spiritual needs of incarcerated persons.

(b) The secretary shall determine whether the project is suitable for a public-private partnership agreement, by conducting an analysis of the feasibility, desirability and the convenience to the public of the project and whether the project furthers the public policy goals of the department of corrections. The secretary shall consult with the secretary of administration for input from the office of facilities and property management when conducting such analysis.

(c) Prior to commencement of a public-private project, the secretary shall advise and consult with the joint committee on state building construction concerning such project, including the budget for such project.

(d) Nothing in this act shall be construed to mean that a public-private partnership may be established for the purpose of developing, financing or construction of a privately operated correctional institution.

(e) The secretary may request approval for the issuance of bonds for a public-private project from the department of administration for the purposes of K.S.A. 74-8905(b), and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with K.S.A. 74-8905, and amendments thereto.

(f) The secretary shall submit to the house of representatives committee on corrections and juvenile justice and the senate committee on judiciary at the beginning of the regular session of the legislature in 2022 and annually thereafter a report of the following: Status of any public-private project entered into; funds raised for the education, skills-building and spiritual needs programs and services; buildings renovated or constructed for such programs or services; names of all education and skills-building program and service providers; brief description of the programs and services offered; number of inmates enrolled in an education or skills-building program or service; and graduation or completion outcomes of each education or skills-building program or service.

New Sec. 3. (a) For any proposed public-private project, the secretary shall cause to be prepared a budget for the project.

(b) The budget shall reflect the source of the funds and set out with particularity the full cost of construction and acquisition of such project. The budget may, but is not required to, include operational costs of such project.

(c) The secretary shall include any department of corrections costs for such projects in budget estimates pursuant to K.S.A. 75-3717 and 75-3717b, and amendments thereto, and clearly indicate the portion to be paid by the state and the portion to be paid by private funds.

(d) The secretary is authorized to establish a nonprofit corporation organized under section 501(c)(3) of the internal revenue code of 1986. The board of directors of the nonprofit corporation shall consist of representatives of the department of corrections and department of administration. The purpose of the nonprofit corporation shall be to receive gifts, donations, grants and other moneys and engage in fundraising to fund new or renovated building projects for education, skills-building and spiritual needs programs at any correctional institution.

New Sec. 4. (a) In any public-private partnership, the secretary shall ensure the private entity is qualified to carry out the project, including, but not limited to, ensuring that the private entity:

(1) Has available such lawful sources of funding, capital, securities or other financial resources as are necessary to carry out the project;

(2) possesses either through its staff, subcontractors, a consortium or joint venture agreement the managerial, organizational, technical capacity and experience in the type of project undertaken;

(3) is qualified to lawfully conduct business in Kansas;

(4) certifies that no director, officer, partner, owner or other individual with direct and significant control over the policy of the private entity has been convicted of corruption or fraud in any jurisdiction of the United States;

(5) maintains a policy of public liability insurance, a copy of which shall be provided to the secretary; and

(6) agrees to abide by all relevant local, state and federal laws, rules and regulations.

(b) In any public-private partnership, the secretary shall enter an agreement that reflects the roles, duties, responsibilities and commitments of all parties. The agreement shall include, but not be limited to:

(1) A clear statement: Of the purpose and scope of the project; of the roles and responsibilities of each party; that the private entity does not gain sovereign immunity by the agreement; and that each party bears liability and responsibility for the actions of such party's agents and employees;

(2) procedures that govern the rights and responsibilities of the public and private entities during the construction of the building and in the event of the termination of the agreement or a material default;

(3) a description of how the project will be carried out consistent with all standards binding on the state, department of corrections and correctional institution where the building is being constructed or renovated;

(4) a budget for the project that reflects source of funding and costs;

(5) a statement that upon completion, the buildings will be owned by the state; and

(6) a statement reflecting that maintenance and operations costs shall be the responsibility of the state after the building is completed.

New Sec. 5. (a) This act does not waive the sovereign immunity of the State of Kansas.

(b) This act does not create sovereign immunity for any private entity entering a public-private partnership under this act.

Sec. 6. K.S.A. 75-3739 is hereby amended to read as follows: 75-3739. In the manner as provided in this act and rules and regulations established thereunder:

(a) All contracts for construction and repairs~~,~~ and all purchases of and contracts for supplies, materials, equipment and contractual services to be acquired for state agencies shall be based on competitive bids, except that competitive bids need not be required in the following instances:

(1) For contractual services, supplies, materials~~,~~ or equipment when, in the judgment of the director of purchases, no competition exists;

(2) when, in the judgment of the director of purchases, chemicals and other material or equipment for use in laboratories or experimental studies by state agencies are best purchased without competition, or where rates are fixed by law or ordinance;

(3) when, in the judgment of the director of purchases, an agency emergency requires immediate delivery of supplies, materials or equipment, or immediate performance of services;

(4) when any statute authorizes another procedure or provides an exemption from the provisions of this section;

(5) when compatibility with existing contractual services, supplies, materials or equipment is the overriding consideration;

(6) when a used item becomes available and is subject to immediate sale; ~~or~~

(7) when, in the judgment of the director of purchases and the head of the acquiring state agency, not seeking competitive bids is in the best interest of the state*; or*

(8) when a public-private partnership between the secretary of corrections and a private entity exists for any public-private project to develop, finance, construct or renovate a building at a correctional institution, provided state funds do not exceed 25% of the total cost. The provisions of this paragraph shall not apply to the procurement process established in K.S.A. 75-5801 et seq., and amendments thereto, regarding engineering services. As used in this paragraph, "public-private partnership," "private entity" and "public-private project" mean the same as defined in section 1, and amendments thereto.

When the director of purchases approves a purchase of or contract for supplies, materials, equipment, or contractual services in any instance specified in this subsection, the director may delegate authority to make the purchase or enter the contract under conditions and procedures prescribed by the director. Except for purchases or contracts entered into without a competitive bid under subsection (a)(3), (a)(4), (a)(6) or subsection (h), no purchase or contract entered into without a competitive bid for an amount in excess of $100,000 shall be entered into by the head of any state agency or approved by the director of purchases unless the director of purchases first posts an on-line notice of the proposed purchase or contract at least seven days before the purchase or contract is awarded. The director of purchases shall provide notice thereof to members of the legislature at the beginning of each calendar year that such information will be posted and the director of the division of purchases shall provide the uniform resource locator (URL) and the number of times such information shall be available. In the event a written protest of the awarding of such a contract occurs during the seven-day notice period, the director of purchases shall request from the protestor the contact information, including name and mailing address, of the person or entity that has expressed an interest in supplying the goods or services and provide a copy of the specification to the person or entity that has expressed an interest in supplying the goods or services and

verify that such person or entity is interested and capable of supplying such goods or services.

Upon satisfaction of the director of purchases regarding the validity of the protest and the existence of competition, the director of purchases shall proceed with a competitive procurement. A competitive procurement shall not be required when, in the judgment of the director of purchases, the validity of the protest cannot be determined or competition for such goods or services cannot be verified by the director of purchases.

The director of purchases shall prepare a detailed report at least once in each calendar quarter of all contracts over $5,000 entered into without competitive bids under subsection (a)(1), (2), (3), (5), (6) ~~or~~, (7) *or (8)*. The director shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate and the chairperson of the committee on appropriations of the house of representatives.

(b) (1) If the amount of the purchase is estimated to exceed $50,000, sealed bids shall be solicited by notice published once in the Kansas register not less than 10 days before the date stated in the notice for the opening of the bids. The director of purchases may waive this publication of notice requirement when the director determines that a more timely procurement is in the best interest of the state. The director of purchases also may designate a trade journal for the publication. The director of purchases also shall solicit such bids by sending notices by mail to prospective bidders and by posting the notice on a public bulletin board for at least 10 business days before the date stated in the notice for the opening of the bids unless otherwise provided by law. All bids shall be sealed when received and shall be opened in public at the hour stated in the notice.

(2) The director of purchases shall prepare a detailed report at least once in each calendar quarter of all instances in which the director waived publication of the notice of bid solicitations in the Kansas register as provided in this subsection. The director shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate and the chairperson of the committee on appropriations of the house of representatives.

(c) All purchases estimated to exceed approximately $25,000 but not more than $50,000, shall be made after receipt of sealed bids following at least three days' notice posted on a public bulletin board.

(d) All purchases estimated to be more than $5,000, but less than $25,000, may be made after the receipt of three or more bid solicitations by telephone, telephone facsimile or sealed bid, following at least three days' notice posted on a public bulletin board. Such bids shall be recorded as provided in subsection (f) of K.S.A. 75-3740, and amendments thereto. Any purchase that is estimated to be less than $5,000 may be purchased

under conditions and procedures prescribed by the director of purchases. Purchases made in compliance with such conditions and procedures shall be exempt from other provisions of this section.

(e) With the approval of the secretary of administration, the director of purchases may delegate authority to any state agency to make purchases of less than $25,000 under certain prescribed conditions and procedures. The director of purchases shall prepare a report at least once in each calendar quarter of all current and existing delegations of authority to state agencies as provided in this subsection. The director shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate and the chairperson of the committee on appropriations of the house of representatives.

(f) Subject to the provisions of subsection (e), contracts and purchases shall be based on specifications approved by the director of purchases. When deemed applicable and feasible by the director of purchases, such specifications shall include either energy efficiency standards or appropriate life cycle cost formulas, or both, for all supplies, materials, equipment and contractual services to be purchased by the state. The director of purchases may reject a contract or purchase on the basis that a product is manufactured or assembled outside the United States. No such specifications shall be fixed in a manner to effectively exclude any responsible bidder offering comparable supplies, materials, equipment or contractual services.

(g) Notwithstanding anything herein to the contrary, all contracts with independent construction concerns for the construction, improvement, reconstruction and maintenance of the state highway system and the acquisition of rights-of-way for state highway purposes shall be advertised and let as now or hereafter provided by law.

(h) The director of purchases may authorize state agencies to contract for services and materials with other state agencies, or with federal agencies, political subdivisions of Kansas, agencies of other states or subdivisions thereof, or private nonprofit educational institutions, without competitive bids.

(i) The director of purchases may participate in, sponsor, conduct, or administer a cooperative purchasing agreement or consortium for purchases of supplies, materials, equipment, and contractual services with federal agencies or agencies of other states or local units of government. Cooperative purchasing agreements entered into under this subsection shall not be subject to K.S.A. 75-3739 through 75-3740a, and amendments thereto.

(j) The director of purchases may delegate authority to any state agency to make purchases under certain prescribed conditions and procedures when the acquisition is funded, in whole or in part, from a grant. Ex-

cept as otherwise provided in subsection (k) ~~of this section~~, purchases made in compliance with such conditions and procedures shall be exempt from other provisions of this section. As used in this subsection the term "grant" means a disbursement made from federal or private funds, or a combination of these sources, to a state agency. Nothing in this subsection shall allow federal grant moneys to be handled differently from any other moneys of the state unless the requirements of the applicable federal grant specifically require such federal moneys to be handled differently.

(k) The director of purchases shall prepare a detailed report at least once each calendar quarter of all contracts over $5,000 for services, supplies, materials or equipment entered into pursuant to subsection (h), (i) or (j) and submit it to the legislative coordinating council, the chairperson of the committee on ways and means of the senate and the chairperson of the committee on appropriations of the house of representatives.

(l) Except as otherwise specifically provided by law, no state agency shall enter into any lease of real property without the prior approval of the secretary of administration. A state agency shall submit to the secretary of administration such information relating to any proposed lease of real property as the secretary may require. The secretary of administration shall either approve, modify and approve or reject any such proposed lease.

(m) The director of purchases shall require all bidders on state contracts to disclose all substantial interests held by the bidder in the state.

(n) As used in article 37 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, and other statutory provisions concerning state procurement, "sealed bids," "bulletin boards" and "mail" shall include electronic bids, electronic bulletin boards and electronic mail when such items are utilized in accordance with procedures prescribed by the director of purchases.

Sec. 7. K.S.A. 75-3739 is hereby repealed.

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

Approved April 22, 2021.

CHAPTER 87

SENATE BILL No. 86
(Amends Chapters 2 and 4)

AN ACT concerning the state treasurer; relating to certain programs under the administration thereof; city utility low-interest loan program; providing for electronic repayment of loans; cash basis exception; payment frequency; loan security; ending date for making loans; establishing the Kansas extraordinary utility costs loan deposit program; Kansas economic recovery loan deposit program; amending K.S.A. 10-130, 75-4218 and 75-4237, as amended by section 7 of 2021 Senate Bill No. 88, and section 1 of 2021 Senate Bill No. 88, section 2 of 2021 Senate Bill No. 88, section 3 of 2021 Senate Bill No. 88, section 4 of 2021 Senate Bill No. 88, section 5 of 2021 Senate Bill No. 88 and section 6 of 2021 Senate Bill No. 88 and repealing the existing sections; also repealing K.S.A. 75-4237, as amended by section 9 of 2021 Senate Bill No. 15, and section 1 of 2021 Senate Bill No. 15, section 2 of 2021 Senate Bill No. 15, section 3 of 2021 Senate Bill No. 15, section 4 of 2021 Senate Bill No. 15, section 5 of 2021 Senate Bill No. 15, section 6 of 2021 Senate Bill No. 15 and section 7 of 2021 Senate Bill No. 15.

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

New Section 1. (a) Sections 1 through 7, and amendments thereto, shall be known and may be cited as the Kansas extraordinary utility costs loan deposit program.

(b) The Kansas extraordinary utility costs loan deposit program shall be a part of and supplemental to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 2. As used in the Kansas extraordinary utility costs loan deposit program:

(a) "Director of investments" means the person appointed as the director of investments pursuant to K.S.A. 75-4222, and amendments thereto;

(b) "eligible borrower" means any wholesale natural gas customer located in the state of Kansas that incurs extraordinary natural gas costs due to the extreme winter weather event of February 2021 and is not an individual obtaining a loan for personal, family or household purposes; and

(c) "eligible lending institution" means a financial institution that is:

(1) A bank, as defined under K.S.A. 75-4201, and amendments thereto, that agrees to participate in the program and is eligible to be a depository of state funds;

(2) a credit union, as defined under K.S.A. 17-2231, and amendments thereto, that agrees to participate in the program and that provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto; or

(3) an institution of the farm credit system organized under the federal farm credit act of 1971, 12 U.S.C. § 2001, as in effect on the effective date of this act, having at least one branch in the state of Kansas and

that agrees to participate in the program and that provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(d) "extraordinary utility costs loan deposit" means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, with an eligible lending institution for the purpose of carrying out the intent of the Kansas extraordinary utility costs loan deposit program;

(e) "extraordinary utility costs loan deposit loan" or "loan" means a loan made by an eligible lending institution to an eligible borrower from the eligible lending institution's extraordinary utility cost loan deposit as part of the Kansas extraordinary utility costs loan deposit program;

(f) "extraordinary utility costs loan deposit loan package" means the forms provided by the state treasurer for the purpose of applying for an extraordinary utility costs loan deposit;

(g) "extraordinary utility costs loan deposit program" or "program" means a state-administered program in which eligible lenders are charged less than the market rate of interest and eligible borrowers receive a reduction in interest charged on a loan in the amount of the deposit;

New Sec. 3. (a) (1) The state treasurer is hereby authorized to administer the Kansas extraordinary utility costs loan deposit program.

(2) The program shall be for the purpose of providing incentives for the making of loans to eligible borrowers for extraordinary natural gas costs incurred during the extreme winter weather event of February 2021.

(3) The total aggregate amount of extraordinary utility costs loan deposit loans under the program shall not exceed the amount of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, certified by the state treasurer and directed to be reinvested pursuant to section 17, and amendments thereto.

(4) (A) Notwithstanding the provisions of any statute to the contrary, a school district, as defined in K.S.A. 72-6486, and amendments thereto, that is an eligible borrower is hereby authorized to enter into loan agreements under the program.

(B) The provisions and restrictions of the cash basis and budget laws of this state shall not apply to any loan received by a school district under the program.

(C) To the extent that any of the provisions of sections 1 through 7, and amendments thereto, conflict with the provisions of chapter 72 of the Kansas Statutes Annotated, and amendments thereto, the provisions of sections 1 through 7, and amendments thereto, shall control.

(D) Any loan made to a school district under the program shall not be considered bonded indebtedness for the purpose of any statute imposing a limitation on indebtedness of a school district.

(b) The state treasurer shall adopt all rules and regulations necessary to enact and administer the provisions of the Kansas extraordinary utility costs loan deposit program. Such rules and regulations shall be adopted not later than February 1, 2022.

(c) The state treasurer shall submit an annual report to the governor and the legislature identifying the eligible lending institutions that are participating in the program and the eligible borrowers who have received an extraordinary utility costs loan deposit loan. The annual report shall provide the aggregate amount of moneys loaned and the amount of moneys still available for loan, if any. Such report shall be due on or before January 1, 2023, and each January 1 thereafter.

(d) The legislature shall perform a review of the program as a part of the state treasurer's annual report on or after January 1, 2024.

New Sec. 4. (a) The state treasurer is hereby authorized to disseminate information and to provide extraordinary utility costs loan deposit loan packages to the lending institutions eligible for participation in the Kansas extraordinary utility costs loan deposit program.

(b) The extraordinary utility costs loan deposit loan package shall be completed by the eligible borrower before being forwarded to the lending institution for consideration.

(c) (1) An eligible lending institution that agrees to receive an extraordinary utility costs loan deposit shall accept and review applications for loans from eligible borrowers.

(2) The lending institution shall apply all usual lending standards to determine the creditworthiness of eligible borrowers.

(3) No single extraordinary utility costs loan deposit loan shall exceed $500,000.

(4) Only one extraordinary utility costs loan deposit loan shall be made and be outstanding at any one time to any eligible borrower.

(5) No loan shall be amortized for a period of more than three years.

(d) An eligible borrower shall certify on the loan application that the reduced rate loan will be used exclusively for the expenses involved in the borrower's utility costs in Kansas incurred during the extreme winter weather event of February 2021.

(e) The eligible lending institution may approve or reject an extraordinary utility costs loan deposit loan package based on the lending institution's evaluation of the eligible borrowers included in the package, the amount of the individual loan in the package and other appropriate considerations.

(f) The eligible lending institution shall forward to the state treasurer an approved extraordinary utility costs loan deposit loan package in the form and manner prescribed and approved by the state treasurer. The package shall include information regarding the amount of the loan re-

quested by each eligible borrower and such other information regarding each eligible borrower that the state treasurer may require. Such package shall include a certification by the applicant that such applicant is an eligible borrower.

New Sec. 5. (a) The state treasurer may accept or reject an extraordinary utility costs loan deposit loan package based on the state treasurer's evaluation of whether the loan to the eligible borrower meets the requirements of the Kansas extraordinary utility costs loan deposit program. If sufficient funds are not available for an extraordinary utility costs loan deposit, then the applications may be considered in the order received when funds are once again available, subject to a review by the lending institution. The fact that an eligible borrower received a loan under the Kansas economic recovery loan deposit program shall not preclude such eligible borrower from receiving a loan under this program.

(b) Upon acceptance, the state treasurer shall certify to the director of investments the amount required for such extraordinary utility costs loan deposit loan package, and the director of investments shall place an extraordinary utility costs loan deposit in the amount certified by the state treasurer with the eligible lending institution at an interest rate that is 2% below the market rate as provided in K.S.A. 75-4237, and amendments thereto, and that shall be recalculated on the first business day of January of each year using the market rate then in effect. The minimum interest rate shall be 0.25% if the market rate is below 2.25%. When necessary, the state treasurer may request the director of investments to place such extraordinary utility costs loan deposit with the eligible lending institution prior to acceptance of an extraordinary utility costs loan deposit loan package.

(c) The eligible lending institution shall enter into an extraordinary utility costs loan deposit agreement with the state treasurer. Such agreement shall include requirements necessary to implement the purposes of the Kansas extraordinary utility costs loan deposit program. Such requirements shall include an agreement by the eligible lending institution to lend an amount equal to the extraordinary utility costs loan deposit to eligible borrowers at an interest rate that is not more than 3% greater than the interest rate on extraordinary utility costs loan deposits as provided in subsection (b). Such rate shall be recalculated on the first business day of January of each year using the market rate then in effect. The agreement shall include provisions for the extraordinary utility costs loan deposit to be placed for a period of time not to exceed three years and that is considered appropriate in coordination with the underlying extraordinary utility costs loan. The agreement shall include provisions for the reduction of the extraordinary utility costs loan deposit in an amount equal to any payment of loan principal by the eligible borrower.

New Sec. 6. Upon the placement of an extraordinary utility costs loan deposit with an eligible lending institution, the institution shall fund the loan to each approved eligible borrower listed in the extraordinary utility costs deposit loan package in accordance with the extraordinary utility costs loan deposit agreement between the institution and the state treasurer. The loan shall be at a rate as provided in section 5(c), and amendments thereto. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution.

New Sec. 7. The state of Kansas and the state treasurer shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on any extraordinary utility costs loan deposit loan to an eligible borrower. Any delay in payments or default by an eligible borrower does not in any manner affect the extraordinary utility costs loan deposit agreement between the eligible lending institution and the state treasurer.

New Sec. 8. (a) Sections 8 through 14, and amendments thereto, shall be known and may be cited as the Kansas economic recovery loan deposit program.

(b) The Kansas economic recovery loan deposit program shall be a part of and supplemental to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 9. As used in the Kansas economic recovery loan deposit program:

(a) "Director of investments" means the person appointed as the director of investments pursuant to K.S.A. 75-4222, and amendments thereto;

(b) "economic recovery loan deposit" means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, with an eligible lending institution for the purpose of carrying out the intent of the Kansas economic recovery loan deposit program;

(c) "economic recovery loan deposit loan" or "loan" means a loan made by an eligible lending institution to an eligible borrower from the eligible lending institution's economic recovery loan deposit as part of the economic recovery loan deposit program;

(d) "economic recovery loan deposit loan package" means the forms provided by the state treasurer for the purpose of applying for an economic recovery loan deposit;

(e) "economic recovery loan deposit program" or "program" means a state-administered program in which eligible lenders are charged less than the market rate of interest and eligible borrowers receive a reduction in interest charged on a loan in the amount of the deposit;

(f) "eligible borrower" means any individual or entity operating a business primarily for commercial or agricultural purposes with not more than 200 full-time employees maintaining offices or operating facilities and transacting business in the state of Kansas and is not an individual obtaining a loan primarily for personal, family or household purposes; and

(g) "eligible lending institution" means a financial institution that is:

(1) A bank, as defined under K.S.A. 75-4201, and amendments thereto, that agrees to participate in the program and is eligible to be a depository of state funds;

(2) a credit union, as defined under K.S.A. 17-2231, and amendments thereto, that agrees to participate in the program and that provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto; or

(3) an institution of the farm credit system organized under the federal farm credit act of 1971, 12 U.S.C. § 2001, as in effect on the effective date of this act, having at least one branch in the state of Kansas, that agrees to participate in the program and that provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 10. (a) (1) The state treasurer is hereby authorized to administer the Kansas economic recovery loan deposit program.

(2) The program shall be for the purpose of providing incentives for the making of business loans.

(3) The total aggregate amount of economic recovery loan deposit loans under the program shall not exceed $60,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(b) The state treasurer shall adopt all rules and regulations necessary to implement and administer the provisions of the Kansas economic recovery loan deposit program. Such rules and regulations shall be adopted not later than February 1, 2022.

(c) The state treasurer shall submit an annual report to the governor and the legislature identifying the eligible lending institutions that are participating in the program and the eligible borrowers who have received an economic recovery loan deposit loan. The annual report shall provide the aggregate amount of moneys loaned and the amount of moneys still available for loan, if any. Such report shall be due on or before January 1, 2023, and each January 1 thereafter.

(d) The legislature shall perform a review of the program as a part of the state treasurer's annual report on or after January 1, 2024.

New Sec. 11. (a) The state treasurer is hereby authorized to disseminate information and to provide economic recovery loan deposit loan

packages to the lending institutions eligible for participation in the Kansas economic recovery loan deposit program.

(b) The economic recovery loan deposit loan package shall be completed by the eligible borrower before being forwarded to the lending institution for consideration.

(c) (1) An eligible lending institution that agrees to receive an economic recovery loan deposit shall accept and review applications for loans from eligible borrowers.

(2) The lending institution shall apply all usual lending standards to determine the creditworthiness of eligible borrowers.

(3) No single economic recovery loan deposit loan shall exceed $250,000.

(4) Only one economic recovery loan deposit loan shall be made and be outstanding at any one time to any eligible borrower.

(5) No loan shall be amortized for a period longer than 10 years.

(d) An eligible borrower shall certify on the loan application that the reduced rate loan will be used exclusively for the expenses involved in operating the borrower's business in Kansas.

(e) The eligible lending institution may approve or reject an economic recovery loan deposit loan package based on the lending institution's evaluation of the eligible borrowers included in the package, the amount of the individual loan in the package and other appropriate considerations.

(f) The eligible lending institution shall forward to the state treasurer an approved economic recovery loan deposit loan package in the form and manner prescribed and approved by the state treasurer. The package shall include information regarding the amount of the loan requested by each eligible borrower and such other information regarding each eligible borrower that the state treasurer may require. Such package shall include a certification by the applicant that such applicant is an eligible borrower.

New Sec. 12. (a) The state treasurer may accept or reject an economic recovery loan deposit loan package based on the state treasurer's evaluation of whether the loan to the eligible borrower meets the requirements of the Kansas economic recovery loan deposit program. If sufficient funds are not available for an economic recovery loan deposit, then the applications may be considered in the order received when funds are once again available, subject to a review by the lending institution. The fact that an eligible borrower received a loan under the Kansas extraordinary utility costs loan deposit program shall not preclude such eligible borrower from receiving a loan under this program.

(b) Upon acceptance, the state treasurer shall certify to the director of investments the amount required for such economic recovery loan deposit loan package, and the director of investments shall place an economic recovery loan deposit in the amount certified by the state treasurer with

the eligible lending institution at an interest rate that is 2% below the market rate as provided in K.S.A. 75-4237, and amendments thereto, and that shall be recalculated on the first business day of January of each year using the market rate then in effect. The minimum interest rate shall be 0.25% if the market rate is below 2.25%. When necessary, the state treasurer may request the director of investments to place such economic recovery loan deposit with the eligible lending institution prior to acceptance of an economic recovery loan deposit loan package.

(c) The eligible lending institution shall enter into an economic recovery loan deposit agreement with the state treasurer. Such agreement shall include requirements necessary to implement the purposes of the Kansas economic recovery loan deposit program. Such requirements shall include an agreement by the eligible lending institution to lend an amount equal to the economic recovery loan deposit to eligible borrowers at an interest rate that is not more than 3% greater than the interest rate on economic recovery loan deposits as provided in subsection (b). Such rate shall be recalculated on the first business day of January of each year using the market rate then in effect. The agreement shall include provisions for the economic recovery loan deposit to be placed for a period of time not to exceed 10 years that is considered appropriate in coordination with the underlying economic recovery loan. The agreement shall include provisions for the reduction of the economic recovery loan deposit in an amount equal to any payment of loan principal by the eligible borrower.

New Sec. 13. Upon the placement of an economic recovery loan deposit with an eligible lending institution, the institution shall fund the loan to each approved eligible borrower listed in the economic recovery deposit loan package in accordance with the economic recovery loan deposit agreement between the institution and the state treasurer. The loan shall be at a rate as provided in section 12(c), and amendments thereto. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution.

New Sec. 14. The state of Kansas and the state treasurer shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on any economic recovery loan deposit loan to an eligible borrower. Any delay in payments or default on the part of an eligible borrower does not in any manner affect the economic recovery loan deposit agreement between the eligible lending institution and the state treasurer.

Sec. 15. Section 1 of 2021 Senate Bill No. 88 is hereby amended to read as follows: Section 1. (a) Sections ~~1~~ *15* through ~~6~~ *20*, and amendments thereto, shall be known and may be cited as the city utility low-interest loan program.

(b) The city utility low-interest loan program shall be a part of and supplemental to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 16. Section 2 of 2021 Senate Bill No. 88 is hereby amended to read as follows: Section 2. As used in the city utility low-interest loan program:

(a) "City" means a city organized and existing under the laws of Kansas *or a municipal energy agency as defined in K.S.A. 12-886, and amendments thereto*;

(b) "director of investments" means the person appointed as the director of investments pursuant to K.S.A. 75-4222, and amendments thereto;

(c) "loan" means a deposit of unencumbered state funds to a city pursuant to the program; and

(d) "program" means the city utility low-interest loan program.

Sec. 17. Section 3 of 2021 Senate Bill No. 88 is hereby amended to read as follows: Section 3. (a) (1) The state treasurer is hereby authorized to administer the city utility low-interest loan program. *The state treasurer and any city are hereby authorized to enter into binding commitments for the provision and receipt of loans in accordance with the provisions of this program.*

(2) The program shall be for the purpose of providing loans to cities for extraordinary electric or natural gas costs incurred during the extreme winter weather event of February 2021.

(3) *(A)* The total aggregate amount of loans under the program shall not exceed $100,000,000 of unencumbered funds pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(B) On the effective date of this act, the state treasurer shall certify to the director of investments the amount of $20,000,000 of unencumbered funds under the program. Upon receipt of such certification, the director of investments shall reinvest such certified amount in accordance with the Kansas extraordinary utility costs loan deposit program, sections 1 through 7, and amendments thereto.

(C) On June 1, 2021, the state treasurer shall certify to the director of investments the amount of any remaining unencumbered funds under the program. Upon receipt of such certification, the director of investments shall reinvest such certified amount in accordance with the Kansas extraordinary utility costs loan program, sections 1 through 7, and amendments thereto.

(4) Any loans received by a city under the provisions of the program shall be construed as bonds for the purposes of K.S.A. 10-1116, and amendments thereto.

(b) The state treasurer shall adopt all rules and regulations necessary to administer the provisions of the program including the development of a streamlined application process. Such rules and regulations shall be

adopted not later than January 1, 2022, except that such streamlined application process shall be established within 14 days from ~~the effective date of this act~~ *March 4, 2021*. The adoption of such rules and regulations shall not be a prerequisite for the approval of loans by the state treasurer under the program. The state treasurer shall approve loans under the program in the most expeditious manner possible on or after ~~the effective date of this act~~ *March 4, 2021*.

(c) The state treasurer shall submit an annual report to the governor and the legislature identifying the cities that are participating in the program. Such annual report shall provide the aggregate amount of moneys loaned ~~and the amount of moneys still available for loan, if any~~. Such report shall be due on or before January 1, 2022, and each January 1 thereafter.

(d) The legislature shall perform a review of the program as part of the state treasurer's annual report on or after January 1, 2024.

Sec. 18. Section 4 of 2021 Senate Bill No. 88 is hereby amended to read as follows: Section 4. (a) The state treasurer is hereby authorized to disseminate information and to provide loan applications as soon as practicable on or after ~~the effective date of this act~~ *March 4, 2021,* to cities for participation in the program.

(b) A city shall forward to the state treasurer an application in the form and manner prescribed and approved by the state treasurer. The application shall include information regarding the amount of the loan requested by the city and such other information that the state treasurer may require, including, but not limited to, the specific fund or account of the city in which loan proceeds shall be deposited. Such application shall contain a certification by the governing body of the city that, if the city receives any federal moneys related to the extreme winter weather event of February 2021, the first priority for expenditure of such moneys shall be for the payment of any outstanding balance of a loan made to the city under the program.

(c) The loan shall be only for those extraordinary electric or natural gas costs incurred during the extreme winter weather event of February 2021, as certified by the governing body of the city, and not for any other utility costs previously budgeted for by the city.

(d) No loan shall be amortized for a period of more than 10 years. Payments on such loan ~~shall not be required to be made more frequently than annually but~~ may be made ~~more frequently~~ *monthly, quarterly or semi-annually* upon *execution of an* agreement between the city and the state treasurer.

(e) The state treasurer may create a lien against the city's utility revenue and surcharges to satisfy any outstanding loan balance. Any city that receives a loan under the program shall apply the proceeds of any lawsuit

or restitution relating to the extraordinary electric or natural gas costs incurred during the extreme winter weather event of February 2021 to the payment of any outstanding loan balance.

(f) Not more than $20,000,000 of loans shall be approved by the state treasurer under the program on and after the effective date of this act, and no loans shall be approved by the state treasurer under the program on and after June 1, 2021.

Sec. 19. Section 5 of 2021 Senate Bill No. 88 is hereby amended to read as follows: Section 5. (a) The state treasurer may accept or reject an application based on the state treasurer's evaluation of whether the city meets the requirements of the program. If sufficient funds are not available for a loan, the applications may be considered in the order received when funds are once again available.

(b) Upon acceptance of an application, the state treasurer shall certify to the director of investments the amount required for such loan and the director of investments shall place a deposit of such certified amount with the specific fund or account of the city indicated in the loan application and approved by the state treasurer. The interest rate on a loan shall be 2% below the market rate as provided in K.S.A. 75-4237, and amendments thereto, and shall be recalculated on the first business day of January of each year using the market rate then in effect. The minimum interest rate shall be 0.25% if the market rate is below 2.25%. When necessary, the state treasurer may request the director of investments to place such deposit with the city prior to approval of an application.

(c) *(1) The treasurer of each city shall remit to the state fiscal agent at least 20 days before the due date of a loan payment, payable at the office of the state treasurer as fiscal agent, sufficient moneys for such loan payment. The treasurer of any city, in lieu of remitting such moneys to the state fiscal agent at such time, may provide the state fiscal agent with electronic fund transfer instructions on forms prescribed by the state treasurer that shall certify that there will be funds on deposit on the transaction date sufficient for the loan payment and that such funds will either reach the office of the state fiscal agent on or before 12 noon of the third working day before the due date of such loan payment or reach the office of the state fiscal agent on or before 12 noon of the first working day before the due date of such loan payment, if such funds are transferred to the state fiscal agent electronically. Upon receipt of such certification, the state fiscal agent shall file the same in the office of the state fiscal agent.*

(2) When a city needs moneys that are in the county treasury to make a loan payment, the treasurer of such city shall make a written request of the county treasurer for the amount needed not later than 25 days prior to the due date of such loan payment. Not later than two days following the receipt of such request, the county treasurer shall forward to the treasurer

of the city the amount requested, if the county treasurer has collected such moneys for such purpose. If the full amount of such a request is not in the county treasury, the county treasurer shall forward the portion that is in the county treasurer's possession for such purpose.

(3) When a county treasurer is charged with the collection of tax moneys for a city, the territory of which is in more than one county, such treasurer shall forward any such funds when collected to the proper county treasurer as soon as practical but not later than two days following receipt of a request from the county treasurer to whom they are to be forwarded.

(4) Failure to pay loan payment moneys when due is:

(A) Failure of a county treasurer to forward moneys in the county treasury when requested as provided in this section;

(B) failure of the treasurer of a city or any county treasurer to make timely request for moneys as provided in this subsection; or

(C) failure of the treasurer of a city to make timely remittance of moneys for payment of loans under this program when such moneys are available for such remittance.

(5) Failure to pay loan payment moneys when due is a class C misdemeanor.

(d) All moneys received by the state treasurer from cities for payment of loans made under the program shall be deposited in the state treasury to the credit of the pooled money investment portfolio.

Sec. 20. Section 6 of 2021 Senate Bill No. 88 is hereby amended to read as follows: Section 6. (a) To the extent that any provisions of sections ~~1~~ *15* through ~~6~~ *20*, and amendments thereto, conflict with the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, or any other provision of law, the provisions of sections ~~1~~ *15* through ~~6~~ *20*, and amendments thereto, shall control.

(b) Any loan made to a city under the program shall not be considered bonded indebtedness for the purposes of K.S.A. 10-308, and amendments thereto, or any other statute imposing a limitation on indebtedness of a city.

Sec. 21. K.S.A. 10-130 is hereby amended to read as follows: 10-130. (a) The treasurer of each municipality shall remit to the state fiscal agent at least 20 days before the day of maturity of any bonds or the interest thereon, payable at the office of the state treasurer as fiscal agent, sufficient moneys for the redemption of such bonds and the payment of the interest thereon. The treasurer of any municipality, in lieu of remitting such moneys to the state fiscal agent at such time, may provide the state fiscal agent with ~~a certificate of a state or national bank or state or federally chartered savings and loan association that there are on deposit in such bank or savings and loan association, held in trust for such state fiscal agent, funds in the form of cash or securities of the United States government,~~ *electronic fund transfer instructions on forms prescribed by*

the state treasurer that shall certify that there will be funds on deposit on the transaction date sufficient for the redemption of such bonds or the payment of the interest thereon, and that such funds will either reach the office of the state fiscal agent on or before 12 ~~o'clock~~ noon of the third working day before the day of maturity of such bonds or the interest thereon or reach the office of the state fiscal agent on or before 12 ~~o'clock~~ noon of the first working day before the day of maturity of such bonds or the interest thereon, if such funds are transferred to the state fiscal agent electronically. Upon receipt of such ~~certificate~~ *certification*, the state fiscal agent shall file the same in the office of the state fiscal agent.

(b) When a municipality needs moneys that are in the county treasury to redeem any bonds or to pay the interest thereon, the treasurer of such municipality shall make a written request of the county treasurer for the amount needed not later than 25 days prior to the maturity date of the bonds or the interest thereon. Not later than two days following the receipt of such request the county treasurer shall forward to the treasurer of the municipality the amount requested, if the county treasurer has collected the same for such purpose. If the full amount of such a request is not in the county treasury, the county treasurer shall forward that portion that is in the county treasurer's possession for such purpose.

(c) When a county treasurer is charged with the collection of tax moneys for a municipality, the territory of which is in more than one county, such treasurer shall forward any such funds when collected to the proper county treasurer as soon as practical, or not later than two days following receipt of a request from the county treasurer to whom they are to be forwarded.

(d) Failure to pay bond moneys when due is any of the following:

(1) Failure of a county treasurer to forward moneys in the county treasury when requested as provided in this section; ~~or~~

(2) failure of the treasurer of a municipality or any county treasurer to make timely request for moneys as provided in this section; or

(3) failure of the treasurer of a municipality to make timely remittance of moneys for redemption of bonds or to pay the interest thereon, when such moneys are available for such remittance.

(e) Failure to pay bond or interest moneys when due is a class C misdemeanor.

Sec. 22. K.S.A. 75-4218 is hereby amended to read as follows: 75-4218. (a) All state bank accounts shall be secured as provided in this section.

The bank, savings bank or savings and loan association receiving or having a state bank account shall deposit, maintain, pledge, assign, and grant a security interest in, or cause its agent, trustee, wholly-owned subsidiary, or affiliate having identical ownership to deposit, maintain, pledge, assign, and grant a security interest in, for the benefit of the state of Kansas, in

the manner provided in this act, securities owned by the depository bank directly or indirectly through its agent or trustee holding securities on its behalf, or owned by the depository bank's wholly-owned subsidiary or by such affiliate, the market value of which is equal to 100% of the amount of the account plus accrued interest, less that portion of the amount of the account plus accrued interest which is insured by the federal deposit insurance corporation or its successor.

(b) All securities securing state bank accounts shall be deposited in a securities account with a bank having the prior approval of the board, *a credit union having the prior approval of the board,* the federal home loan bank of Topeka or with the state treasurer pursuant to a written custodial agreement, and a receipt taken therefor with one copy going to the treasurer and one copy going to the bank, savings bank or savings and loan association which has secured such state bank account. The receipt shall identify the securities which are subject to a security interest to secure payment of the state bank account. This section shall not prohibit any custodial bank receiving securities on deposit from issuing a receipt and depositing securities identified in the receipt in such bank's account with any bank chartered in Kansas or any other state, any trust company chartered in Kansas or any other state, any national bank, or any centralized securities depository wherever located within the United States. No securities securing state bank accounts shall be deposited in any bank, trust company or national bank which is owned directly or indirectly by any parent corporation of the depository bank, or with any bank, trust company, or national bank having common controlling shareholders, having a common majority of the board of directors or having common directors with the ability to control or influence directly or indirectly the acts or policies of the bank, savings and loan association or savings bank securing such state bank account. Any custodial bank which releases securities securing a state bank account without being authorized to do so under the custodial agreement shall be liable to the state for any loss to the state resulting therefrom.

(c) Securities securing state bank accounts may be deposited with the federal reserve bank of Kansas City to be there held in such manner, under regulations and operating letters of the federal reserve bank, as to secure payment of the state bank account in the depository bank.

(d) The depository bank, and any agent, trustee, wholly-owned subsidiary or affiliate having identical ownership granting a security interest shall enter into a written agreement with the state of Kansas granting the state of Kansas a security interest in the securities to secure payment of the state bank account. Such security interest shall be perfected by the depository bank and any agent, trustee, wholly-owned subsidiary or affiliate having identical ownership granting a security interest causing control of the securities under the Kansas uniform commercial code to be given

to the state of Kansas. The security agreement and the custodial agreement shall be in writing, executed by all parties thereto, maintained as part of their official records, and, except for the state of Kansas, approved by their boards of directors or their loan committees, which approvals shall be reflected in the minutes of the boards or committees.

Sec. 23. K.S.A. 75-4237, as amended by section 7 of 2021 Senate Bill No. 88, is hereby amended to read as follows: 75-4237. (a) The director of investments shall accept requests from banks interested in obtaining investment accounts of state moneys. Such requests may be submitted any business day and shall specify the dollar amount and maturity. The director of investments is authorized to award the investment account to the requesting bank at the market rate established by subsection (b). Awards of investment accounts pursuant to this section shall be subject to investment policies of the pooled money investment board. When multiple requests are received and are in excess of the amount available for investment that day for any maturity, awards shall be made available in ascending order from smallest to largest dollar amount requested, subject to investment policies of the board.

(b) The market rate shall be determined each business day by the director of investments, in accordance with any procedures established by the pooled money investment board. Subject to any policies of the board, the market rate shall reflect the highest rate at which state moneys can be invested on the open market in investments authorized by K.S.A. 75-4209(a), and amendments thereto, for equivalent maturities.

(c) (1) Notwithstanding the provisions of this section, linked deposits made pursuant to the provisions of K.S.A. 2-3703 through 2-3707, and amendments thereto, shall be at an interest rate that is 2% less than the market rate determined under this section and that shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(2) Notwithstanding the provisions of this section, agricultural production loan deposits made pursuant to the provisions of K.S.A. 75-4268 through 75-4274, and amendments thereto, shall be at an interest rate that is 2% less than the market rate provided by this section and that shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(3) Notwithstanding the provisions of this section, loan deposits made pursuant to the city utility low-interest loan program shall be at an interest rate that is 2% less than the market rate provided by this section and that shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(4) Notwithstanding the provisions of this section, economic recovery loan deposits made pursuant to the Kansas economic recovery loan deposit program shall be at an interest rate that is 2% less than the market rate

provided by this section and that shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(5) Notwithstanding the provisions of this section, extraordinary utility costs loan deposits made pursuant to the Kansas extraordinary utility costs loan deposit program shall be at an interest rate that is 2% less than the market rate provided by this section and that shall be recalculated on the first business day of each calendar year using the market rate then in effect.

(d) (1) The director of investments may place deposits through a selected bank, savings and loan association or savings bank that is part of a reciprocal deposit program in which the bank, savings and loan association or savings bank:

(A) Receives reciprocal deposits from other participating institutions located in the United States in an amount equal to the amount of funds deposited by the municipal corporation or quasi-municipal corporation; and

(B) for which the total cumulative amount of each deposit does not exceed the maximum deposit insurance amount for one depositor at one financial institution as determined by the federal deposit insurance corporation.

(2) Such deposits shall not be treated as securities and need not be secured as provided in this or any other act, except that such deposits shall be secured as provided in K.S.A. 75-4218, and amendments thereto, when they are held by the selected financial institution prior to placement with reciprocal institutions or upon maturity.

(e) The pooled money investment board shall establish procedures for administering reciprocal deposit programs in its investment policies, as authorized by K.S.A. 75-4232, and amendments thereto.

Sec. 24. K.S.A. 10-130, 75-4218 and 75-4237, as amended by section 7 of 2021 Senate Bill No. 88, and section 1 of 2021 Senate Bill No. 88, section 2 of 2021 Senate Bill No. 88, section 3 of 2021 Senate Bill No. 88, section 4 of 2021 Senate Bill No. 88, section 5 of 2021 Senate Bill No. 88 and section 6 of 2021 Senate Bill No. 88 are hereby repealed.

Sec. 25. On July 1, 2021, K.S.A. 75-4237, as amended by section 9 of 2021 Senate Bill No. 15, and section 1 of 2021 Senate Bill No. 15, section 2 of 2021 Senate Bill No. 15, section 3 of 2021 Senate Bill No. 15, section 4 of 2021 Senate Bill No. 15, section 5 of 2021 Senate Bill No. 15, section 6 of 2021 Senate Bill No. 15 and section 7 of 2021 Senate Bill No. 15 are hereby repealed.

Sec. 26. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 22, 2021.

Published in the *Kansas Register* April 29, 2021.

CHAPTER 88

Senate Substitute for HOUSE BILL No. 2208

AN ACT concerning health and healthcare; relating to health professions and facilities; establishing rural emergency hospitals as a rural healthcare licensure category; requirements for licensure; certification and funding of certified community behavioral health clinics; prescribing powers, duties and functions of the Kansas department for aging and disability services and the department of health and environment related thereto; authorizing the issuance of telemedicine waivers for the practice of telemedicine by out-of-state healthcare providers; relating to professions regulated by the behavioral sciences regulatory board; reducing certain licensing requirements; expanding temporary practice permits and the board's grounds for discipline; providing grant assistance to hospitals in certain counties; prescribing powers, duties and functions of the secretary of health and environment related thereto; establishing the rural hospital innovation grant program and rural hospital innovation grant fund; amending K.S.A. 65-425, 65-431, 65-5804a, 65-5807a, 65-5808, 65-5809, 65-6309a, 65-6311, 65-6404, 65-6405a, 65-6408, 65-6610, 65-6612, 65-6615, 74-5316a, 74-5324, 74-5363, 74-5367a and 74-5369 and K.S.A. 2020 Supp. 65-6306 and 65-6411 and repealing the existing sections.

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

New Section 1. Sections 1 through 8, and amendments thereto, shall be known and may be cited as the rural emergency hospital act.

New Sec. 2. The legislature of the state of Kansas recognizes the importance and necessity of providing and regulating the system by which healthcare services are structured and integrated to promote the availability of and access to necessary and appropriate healthcare to protect the general health, safety and welfare of the rural residents of Kansas. The legislature of the state of Kansas seeks to: Improve the health of the rural population of Kansas; preserve access to healthcare; encourage collaboration among rural healthcare providers; promote delivery of quality rural healthcare; promote efficiency and efficacy of rural healthcare; embrace technology in the delivery of rural healthcare; and promote adequate and fair reimbursement for rural healthcare services. To this end, it is the policy of the state of Kansas to create a category of licensure to enable certain Kansas hospitals to receive federal healthcare reimbursement as rural emergency hospitals, and the implementation of this act facilitates such policy.

New Sec. 3. As used in the rural emergency hospital act:

(a) "Act" means the rural emergency hospital act.

(b) "Rural emergency hospital" means an establishment that:

(1) Meets the eligibility requirements described in section 4, and amendments thereto;

(2) provides rural emergency hospital services;

(3) provides rural emergency hospital services in the facility 24 hours per day by maintaining an emergency department that is staffed 24 hours

per day, 7 days per week, with a physician, nurse practitioner, clinical nurse specialist or physician assistant;

(4) has a transfer agreement in effect with a level I or level II trauma center; and

(5) meets such other requirements as the department of health and environment finds necessary in the interest of the health and safety of individuals who are provided rural emergency hospital services and to implement state licensure that satisfies requirements for reimbursement by federal healthcare programs as a rural emergency hospital.

(c) "Rural emergency hospital services" means the following services, provided by a rural emergency hospital, that do not require in excess of an annual per-patient average of 24 hours in such rural emergency hospital:

(1) Emergency department services and observation care; and

(2) at the election of the rural emergency hospital, for services provided on an outpatient basis, other medical and health services as specified in regulations adopted by the United States secretary of health and human services and authorized by the department of health and environment.

(d) "Secretary" means the secretary of health and environment.

New Sec. 4. (a) A facility shall be eligible to apply for a rural emergency hospital license if such facility, as of December 27, 2020, was a:

(1) Licensed critical access hospital;

(2) general hospital with not more than 50 licensed beds located in a county in a rural area as defined in section 1886(d)(2)(D) of the federal social security act; or

(3) general hospital with not more than 50 licensed beds that is deemed as being located in a rural area pursuant to section 1886(d)(8)(E) of the federal social security act.

(b) A facility applying for licensure as a rural emergency hospital shall include with the licensure application:

(1) An action plan for initiating rural emergency hospital services, including a detailed transition plan that lists the specific services that the facility will retain, modify, add and discontinue;

(2) a description of services that the facility intends to provide on an outpatient basis; and

(3) such other information as required by rules and regulations adopted by the department of health and environment.

(c) A rural emergency hospital shall not have inpatient beds, except that such hospital may have a unit that is a distinct part of such hospital and that is licensed as a skilled nursing facility to provide post-hospital extended care services.

(d) A rural emergency hospital may own and operate an entity that provides ambulance services.

(e) A licensed general hospital or critical access hospital that applies for and receives licensure as a rural emergency hospital and elects to operate as a rural emergency hospital shall retain its original license as a general hospital or critical access hospital. Such original license shall remain inactive while the rural emergency hospital license is in effect.

New Sec. 5. All rural emergency hospitals, including city, county, hospital district or other governmental or quasi-governmental hospitals, shall be authorized to enter into any contracts required to be eligible for federal reimbursement as a rural emergency hospital.

New Sec. 6. In addition to the provisions of K.S.A. 65-4909, and amendments thereto, entities engaging in activities and entering into contracts required to meet the requirements for licensure and reimbursement as a rural emergency hospital, and officers, agents, representatives, employees and directors thereof, shall be considered to be acting pursuant to clearly expressed state policy as established in this act under the supervision of the state. Such entities shall not be subject to state or federal antitrust laws while acting in such manner.

New Sec. 7. The secretary shall adopt rules and regulations establishing minimum standards for the establishment and operation of rural emergency hospitals in accordance with this act, including licensure of rural emergency hospitals.

New Sec. 8. Each individual and group policy of accident and sickness insurance, each contract issued by a health maintenance organization and all coverage maintained by an entity authorized under K.S.A. 40-2222, and amendments thereto, or by a municipal group-funded pool authorized under K.S.A. 12-2618, and amendments thereto, shall provide benefits for services when performed by a rural emergency hospital if such services would be covered under such policies, contracts or coverage if performed by a general hospital.

New Sec. 9. (a) The Kansas department for aging and disability services shall establish a process for certification of and funding for certified community behavioral health clinics in accordance with this section.

(b) The Kansas department for aging and disability services shall certify as a certified community behavioral health clinic any community mental health center licensed by the department that provides the following services: Crisis services; screening, assessment and diagnosis, including risk assessment; person-centered treatment planning; outpatient mental health and substance use services; primary care screening and monitoring of key indicators of health risks; targeted case management; psychiatric rehabilitation services; peer support and family supports; medication-assisted treatment; assertive community treatment; and community-based mental healthcare for military servicemembers and veterans.

(c) (1) The department of health and environment shall establish a prospective payment system under the medical assistance program for funding certified community behavioral health clinics. Such system shall permit payment by either daily or monthly rates.

(2) The department of health and environment shall submit to the United States centers for medicare and medicaid services any approval request necessary to implement this subsection.

(3) Such prospective payment system shall be implemented on or before May 1, 2022.

(d) (1) Subject to applications therefor, the Kansas department for aging and disability services shall certify community behavioral health clinics by not later than the following specified dates:

(A) Six facilities currently receiving grants to operate as certified community behavioral health clinics by not later than May 1, 2022;

(B) three additional facilities by not later than July 1, 2022;

(C) nine additional facilities by not later than July 1, 2023; and

(D) eight additional facilities by not later than July 1, 2024.

(2) The Kansas department for aging and disability services may certify community behavioral health clinics in advance of the deadlines established in paragraph (1), including portions of the specified numbers of facilities.

(d) The secretary for aging and disability services adopt rules and regulations as necessary to implement and administer this section.

New Sec. 10. (a) Notwithstanding any other provision of law, a physician holding a license issued by the applicable licensing agency of another state or who otherwise meets the requirements of this section may practice telemedicine to treat patients located in the state of Kansas, if such physician receives a telemedicine waiver issued by the state board of healing arts. The state board of healing arts shall issue such a waiver within 15 days from receipt of a complete application, if the physician:

(1) Submits a complete application that may include evidence in the form of an affidavit from an authorized third party that the applicant meets the requirements of this section in a manner determined by the state board of healing arts and pays a fee not to exceed $100; and

(2) holds an unrestricted license to practice medicine and surgery in another state or meets the qualifications required under Kansas law for a license to practice medicine and surgery and is not the subject of any investigation or disciplinary action by the applicable licensing agency.

(b) A physician practicing telemedicine in accordance with this subsection shall conduct an appropriate assessment and evaluation of the patient's current condition and document the appropriate medical indication for any prescription issued.

(c) Nothing in this section shall supersede or otherwise affect the provisions of K.S.A. 65-4a10, and amendments thereto, or K.S.A. 2020 Supp. 40-2,210 et seq., and amendments thereto.

(d) Any person who receives a telemedicine waiver under the provisions of this section shall be subject to all rules and regulations pertaining to the practice of the licensed profession in this state and shall be considered a licensee for the purposes of the professional practice acts administered by the state board of healing arts.

(e) A waiver issued under this section shall expire on the date of expiration established by the state board of healing arts unless renewed in the manner established by the state board of healing arts, including payment of an annual renewal fee not to exceed $100 and evidence that the applicant continues to meet the qualifications described in this section.

(f) Notwithstanding any other provision of law to the contrary, a physician holding a license issued by the applicable licensing agency of another state may provide, without limitation, consultation through remote technology to a physician licensed in the state of Kansas.

(g) An applicable healthcare licensing agency of this state may adopt procedures consistent with this section to allow other healthcare professionals licensed and regulated by such licensing agency to practice telemedicine within the scope of practice defined by Kansas law for such healthcare profession as deemed by such licensing agency to be consistent with ensuring patient safety.

(h) Nothing in this section shall be construed to prohibit a licensing agency from denying an application for a waiver under this section if the licensing body determines that granting the application may endanger the health and safety of the public.

(i) As used in this subsection, "telemedicine" means the delivery of healthcare services by a healthcare provider while the patient is at a different physical location.

New Sec. 11. (a) As used in this section:

(1) "Eligible county" means a county in Kansas other than Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county.

(2) "Hospital" means the same as defined in K.S.A. 65-425, and amendments thereto.

(3) "Transitional assistance" means any assistance related to changing a hospital's current healthcare delivery model to a model more appropriate for the community that the hospital serves, including, but not limited to: Conducting a market study of healthcare services needed and provided in the community; acquiring and implementing new technological tools and infrastructure, including, but not limited to, telemedicine delivery methods; and acquiring the services of appropriate personnel,

including, but not limited to, additional medical residents or individuals trained to be needed healthcare professionals.

(b) (1) There is established the rural hospital innovation grant program to be administered by the secretary of health and environment. The program, and any grant awarded thereunder, shall be for the purpose of strengthening and improving the healthcare system and increasing access to healthcare services in eligible counties to help communities in such counties achieve and maintain optimal health by providing transitional assistance to hospitals in such counties. The secretary may award a rural hospital innovation grant to a county that applies in accordance with this section.

(2) The secretary of health and environment may award a grant under this section only if the amount of state moneys to be awarded in the grant has been matched by private stakeholders, including hospital foundations or other organizations, contributing to the secretary for the program, on a basis of $2 of private stakeholder moneys for every $1 of state moneys. The secretary of health and environment may receive moneys by bequest, donation or gift to fulfill the public-private match of moneys required under this paragraph. Any such moneys received 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 rural hospital innovation grant fund. A private stakeholder may certify to the secretary of health and environment that an amount of money is dedicated to the rural hospital innovation grant program. Such certified dedicated moneys shall remain with the private stakeholder until such time as the grant is awarded, and the secretary shall count such certified dedicated moneys to fulfill the public-private match required under this paragraph.

(3) A private stakeholder who has contributed moneys or certified dedicated moneys to the secretary of health and environment may specify a county to receive a grant using such private stakeholder's moneys. If the secretary does not award a grant to the specified county in the same fiscal year as such request, the secretary shall return the amount of contributed moneys to the private stakeholder and any such certification shall lapse.

(4) Prior to applying for a rural hospital innovation grant, any eligible county may enter into memorandums of understanding and other necessary agreements with private stakeholders and other eligible counties.

(5) The board of county commissioners of an eligible county, or the board's designee, may apply to the secretary for a rural hospital innovation grant in the form and manner prescribed by the secretary of health and environment. Such application shall include:

(A) A description of the hospital for which the grant moneys will be expended, including the name and location of the hospital;

(B) a statement of the amount of grant moneys requested;

(C) a description of the needs of the hospital, the transitional assistance for which the grant moneys will be expended and how such transitional assistance will meet the stated needs;

(D) a certification that the hospital has exhausted all opportunities for federal moneys available to such hospital for transitional assistance purposes, including, but not limited to, any federal moneys related to COVID-19 relief that may be used for such purposes; and

(E) any other information that the secretary deems necessary to administer this section.

(6) Prior to awarding any grant moneys to an eligible county under this section, the secretary shall enter into a written agreement with the county requiring that the county:

(A) Expend any such grant moneys to provide transitional assistance to a hospital in the eligible county, as approved by the secretary;

(B) not later than one year after any such grant moneys are awarded, report to the secretary detailing the effect that such grant is having on health and other outcomes in the eligible county and the affected community;

(C) repay all awarded grant moneys to the secretary if the county fails to satisfy any material term or condition of the grant agreement; and

(D) any other terms and conditions that the secretary deems necessary to administer this section.

(7) No rural hospital innovation grant shall be awarded to provide transitional assistance to any hospital that has not exhausted all opportunities for federal moneys available to such hospital for transitional assistance purposes, including, but not limited to, any federal moneys related to COVID-19 relief that may be used for such purposes.

(c) (1) There is established in the state treasury the rural hospital innovation grant fund to be administered by the secretary of health and environment. All moneys credited to the fund shall be used only for purposes related to the rural hospital innovation grant 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.

(2) (A) Notwithstanding the provisions of chapter 1 of the 2020 Special Session Laws of Kansas or any other provision of law to the contrary, on June 15, 2021, the director of the budget shall determine the amount of moneys received by the state that are identified as moneys from the federal government for aid to the state of Kansas for coronavirus relief as appropriated in the following acts that are eligible to be used for the purpose of awarding grants under this section, that may be expended at the discretion of the state in compliance with the United States office

of management and budget's uniform administrative requirements, cost principles and audit requirements for federal awards and that are unencumbered, including:

(i) The federal CARES act, public law 116-136, the federal coronavirus preparedness and response supplemental appropriation act, public law 116-123, the federal families first coronavirus response act, public law 116-127, and the federal paycheck protection program and health care enhancement act, public law 116-139;

(ii) the federal consolidated appropriations act, 2021, public law 116-260;

(iii) the American rescue plan act of 2021, public law 117-2; and

(iv) any other federal law that appropriates moneys to the state for aid for coronavirus relief.

(B) Of the moneys identified in accordance with subparagraph (A), the director of the budget shall determine an aggregate amount equal to $10,000,000 available in special revenue funds. If such identified moneys are less than $10,000,000, the director of the budget shall determine the maximum amount available. The director of the budget shall certify the amount determined under this subparagraph from each fund to the director of accounts and reports. At the same time as such certification is transmitted, the director of the budget shall transmit a copy of such certification to the director of legislative research.

(C) On July 1, 2021, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer an aggregate amount equal to the certification received in accordance with subparagraph (B) from such funds to the rural hospital innovation grant fund. If such aggregate amount of moneys certified is less than $10,000,000, the director of accounts and reports shall transfer from the state general fund to the rural hospital innovation grant fund the difference between $10,000,000 and the amount certified.

(d) The secretary of health and environment shall adopt rules and regulations as necessary to implement and administer this section.

(e) (1) On or before October 1 of each year, for each rural hospital innovation grant awarded under this section, the county shall prepare and submit to the secretary of health and environment a report describing: The amount and stated purposes of any awarded grant moneys; the fulfillment of the terms and conditions of the grant agreement; and the transitional assistance upon which the moneys have been spent.

(2) On or before February 1 of each year, the secretary shall compile the information received under this subsection and submit a report to the governor and the legislature including such information and a description of and reasoning for any applications for a rural hospital innovation grant that the secretary has denied.

(f) (1) The rural hospital innovation grant program shall expire on June 30, 2025.

(2) On July 1, 2025:

(A) The director of accounts and reports shall transfer all moneys in the rural hospital innovation grant fund to the state general fund;

(B) all liabilities of the rural hospital innovation grant fund shall be transferred to and imposed on the state general fund; and

(C) the rural hospital innovation grant fund shall be abolished.

Sec. 12. K.S.A. 65-425 is hereby amended to read as follows: 65-425. As used in this act:

(a) "General hospital" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide diagnosis and treatment for patients who have a variety of medical conditions.

(b) "Special hospital" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide diagnosis and treatment for patients who have specified medical conditions.

(c) "Person" means any individual, firm, partnership, corporation, company, association, or joint-stock association, and the legal successor thereof.

(d) "Governmental unit" means the state, or any county, municipality, or other political subdivision thereof; or any department, division, board or other agency of any of the foregoing.

(e) "Licensing agency" means the department of health and environment.

(f) "Ambulatory surgical center" means an establishment with an organized medical staff of one or more physicians; with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; with continuous physician services during surgical procedures and until the patient has recovered from the obvious effects of anesthetic and at all other times with physician services available whenever a patient is in the facility; with continuous registered professional nursing services whenever a patient is in the facility; and which does not provide services or other accommodations for patient to stay more than 24 hours. Before discharge from an ambulatory surgical center, each patient shall be evaluated by a physician for proper anesthesia recovery. Nothing in this section shall be construed to require the office of a physician or physicians to be licensed under this act as an ambulatory surgical center.

(g) "Recuperation center" means an establishment with an organized medical staff of physicians~~; with~~, permanent facilities that include inpatient beds~~; and with~~, medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide treatment for patients who require inpatient care but are not in an acute phase of illness, who currently require primary convalescent or restorative services~~,~~ and who have a variety of medical conditions.

(h) "Medical care facility" means a hospital, ambulatory surgical center or recuperation center,~~ but shall~~ *except that "medical care facility" does* not include a hospice~~ which~~ *that* is certified to participate in the medicare program under 42~~ code of federal regulations, chapter IV, section~~ *C.F.R. §* 418.1 et seq.~~ and amendments thereto~~ and~~ which~~ *that* provides services only to hospice patients.

(i) "Critical access hospital"~~ shall have the meaning ascribed to such term under~~ *means the same as defined in* K.S.A. 65-468 and amendments thereto.

(j) "Hospital" means "general hospital," "critical access hospital," or "special hospital."

(k) "Physician" means a person licensed to practice medicine and surgery in this state.

(l) "Rural emergency hospital" means the same as defined in section 2, and amendments thereto.

Sec. 13. K.S.A. 65-431 is hereby amended to read as follows: 65-431. (a) The licensing agency shall adopt, amend, promulgate and enforce such rules and regulations and standards with respect to the different types of medical care facilities to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting safe and adequate treatment of individuals in medical care facilities in the interest of public health, safety and welfare.

(b) No rule or regulation shall be made by the licensing agency~~ which~~ *that* would discriminate against any practitioner of the healing arts who is licensed to practice medicine and surgery in this state. Boards of trustees or directors of facilities licensed pursuant to the provisions of this act shall have the right, in accordance with law, to select the professional staff members of such facilities and to select and employ interns, nurses and other personnel, and no rules and regulations or standards of the licensing agency shall be valid~~ which~~ *that*, if enforced, would interfere in such selection or employment. In the selection of professional staff members, no hospital licensed under K.S.A. 65-425 et seq.*, and amendments thereto,* shall discriminate against any practitioner of the healing arts who is licensed to practice medicine and surgery in this state for reasons based solely upon the practitioner's branch of the healing arts or the school or

~~health care~~ *healthcare* facility ~~in which~~ *where* the practitioner received medical schooling or postgraduate training.

(c) In formulating rules and regulations, the agency shall give due consideration to the size of the medical care facility, the type of service it is intended to render, the scope of such service, *requirements for the receipt of federal reimbursement for the type of medical care facility* and the financial resources in and the needs of the community which such facility serves.

(d) *(1)* A hospital consisting of more than one establishment shall be considered in compliance with the rules and regulations of the licensing agency if*:*

(A) All basic services required by the agency are available as a part of the combined operation*;* and ~~if~~

(B) the following basic services are available at each establishment:

(i) Continuous nursing service~~,~~*;*

(ii) continuous physician coverage on duty or on call~~,~~*;*

(iii) basic diagnostic radiological and laboratory facilities~~,~~*;*

(iv) drug room~~,~~*;*

(v) emergency services~~,~~*;*

(vi) food service~~,~~*;* and

(vii) patient isolation.

(2) The requirements of paragraphs (1)(A) and (B) shall be deemed to be satisfied by a rural emergency hospital if such rural emergency hospital meets the licensing requirements established for such hospital by the licensing agency.

Sec. 14. K.S.A. 65-5804a is hereby amended to read as follows: 65-5804a. (a) Applications for licensure as a professional counselor shall be made to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the fee fixed under K.S.A. 65-5808, and amendments thereto.

(b) Each applicant for licensure as a professional counselor shall furnish evidence satisfactory to the board that the applicant:

(1) Is at least 21 years of age;

(2) has completed 60 graduate semester hours including a graduate degree in counseling or a related field from a college or university approved by the board and that includes 45 graduate semester hours of counseling coursework distributed among each of the following areas:

(A) Counseling theory and practice;

(B) the helping relationship;

(C) group dynamics, processing and counseling;

(D) human growth and development;

(E) ~~life-style~~ *lifestyle* and career development;

(F) appraisal of individuals;

(G) social and cultural foundations;

(H) research and evaluation;

(I) professional orientation; and

(J) supervised practicum and internship;

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

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

(c) (1) Applications for licensure as a clinical professional counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed professional counselor or meets all requirements for licensure as a licensed professional counselor;

(B) has completed 15 credit hours, as part of or in addition to the requirements under subsection (b), supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual through identifiable study of the following content areas: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than ~~350~~ *280* hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than ~~4,000~~ *3,000* hours of supervised professional experience, including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than ~~150~~ *100* hours of *face-to-face* clinical supervision, ~~including not less than 50 hours of person-to-person individual supervision,~~ *as defined by the board in rules and regulations, including not less than 50 hours of individual supervision, except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances,* integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, except that ~~one half~~ *the board may waive ½* of the ~~requirement of~~ *hours required by* this subparagraph ~~may be waived~~ for ~~persons with~~ *an individual who has* a ~~doctor's~~ *doctoral* degree in professional counseling or a related field ~~acceptable to~~ *approved by* the board *and who completes the required ½ of the hours in not less than one year of supervised professional experience*;

(E) for persons ~~earning~~ *who earned* a degree under subsection (b) prior to July 1, 2003, in lieu of the education requirements under subparagraphs (B) and (C), has completed the education requirements for licensure as a professional counselor in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary permit to practice as a licensed professional counselor on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under subparagraphs (B), (C) and (D), has completed the education and training requirements for licensure as a professional counselor in effect on the day immediately preceding the effective date of this act;

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

(H) has paid the application fee fixed under K.S.A. 65-5808, and amendments thereto.

(2) A person who was licensed or registered as a professional counselor in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of professional counseling as a registered or licensed professional counselor within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees *pursuant to K.S.A. 65-5808, and amendments thereto,* and completion of applicable continuing education requirements, shall be licensed as a licensed clinical professional counselor by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

(A) Either: (i) Graduate coursework; or (ii) passing a national, clinical examination;

(B) either: (i) Three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital; or (ii) three years of clinical practice in other settings with demonstrated experience in diagnosing or treating mental disorders; or

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

(3) A licensed clinical professional counselor may engage in the independent practice of professional counseling and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical professional counselor

shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical professional counselor may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(4) A licensed professional counselor may diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations only under the direction of a licensed clinical professional counselor, licensed psychologist, person licensed to practice medicine and surgery or person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders. When a client has symptoms of a mental disorder, a licensed professional counselor shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed professional counselor may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(d) The board shall adopt rules and regulations establishing the criteria that a college or university shall satisfy in order to be approved by the board. The board may send a questionnaire developed by the board to any college or university for which the board does not have sufficient information to determine whether the school meets the requirements for approval and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the college or university to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about colleges and universities. In entering such contracts, the authority to approve college and universities shall remain solely with the board.

(e) A person who is waiting to take the examination required by the board may apply to the board for a temporary license to practice as a licensed professional counselor by:

(1) Paying an application fee of ~~no~~ *not* more than $150; and

(2) meeting the application requirements as stated in K.S.A. 65-5804a(b)(1), (2) and (4), and amendments thereto.

(f) (1) A temporary license may be issued by the board after the application has been reviewed and approved by the board and the applicant

has paid the appropriate fee set by the board for issuance of ~~new licenses~~ *a temporary license*.

(2) Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies a license to practice professional counseling or ~~six~~ *12* months after the date of issuance of the temporary license. No temporary license will be renewed or issued again on any subsequent application for the same license level. The preceding provisions in no way limit the number of times an applicant may take the examination.

(g) A person practicing professional counseling with a temporary license may not use the title "licensed professional counselor" or the initials "LPC" independently. The word "licensed" may be used only when followed by the words "by temporary license," such as licensed professional counselor by temporary license, or professional counselor licensed by temporary license.

(h) No person may practice professional counseling under a temporary license except under the supervision of a person licensed by the behavioral sciences regulatory board at the independent level.

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

Sec. 15. K.S.A. 65-5807a is hereby amended to read as follows: 65-5807a. (a) Upon written application and board approval, an individual who is licensed to engage in the independent clinical practice of professional counseling at the clinical level in another jurisdiction ~~and~~, who is in good standing in that other jurisdiction *and who has engaged in the clinical practice of professional counseling in that jurisdiction for at least two years immediately preceding application* may engage in the independent practice of clinical professional counseling as provided by K.S.A. 65-5801 et seq., and amendments thereto, in this state for ~~no~~ *not* more than ~~15~~ *30* days per year upon receipt of a temporary permit to practice issued by the board. *Such individual engaging in such practice in this state shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state.*

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

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire ~~December 31 of that year~~ *one*

year after issuance. Upon written application ~~and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days~~ *not later than 30 days before the expiration of a temporary permit and under emergency circumstances, as defined by the board, the board may extend the temporary permit for not more than one additional year. Such extended temporary permit shall authorize the individual to practice in this state for an additional 30 days during the additional year. Such individual engaging in such practice shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state*.

(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.

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

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

(g) This section shall be *a* part of and supplemental to the professional counselors licensure act.

Sec. 16. K.S.A. 65-5808 is hereby amended to read as follows: 65-5808. (a) The board may fix the following fees, and any such fees shall be established by rules and regulations adopted by the board:

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

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

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

(4) for renewal for licensure as a professional counselor, not more than $150;

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

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

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

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

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

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

(11) for a wallet card license, not more than $5*; and*

(12) for application as a board-approved clinical supervisor, not more than $50.

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

Sec. 17. K.S.A. 65-5809 is hereby amended to read as follows: 65-5809. (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed $1,000 per violation upon a finding that a licensee or an applicant for licensure:

(1) Is incompetent to practice professional counseling~~, which~~. *"Incompetent to practice professional counseling"* means:

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

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

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

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

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

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

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

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

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

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

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

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

(11) has violated any lawful order or directive of the board previously entered by the board.

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

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

Sec. 18. K.S.A. 2020 Supp. 65-6306 is hereby amended to read as follows: 65-6306. (a) The board shall issue a license as a baccalaureate social worker to an applicant who *has*:

(1) ~~Has~~ A baccalaureate degree from an accredited college or university, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) ~~has~~ passed an examination approved by the board for this purpose; and

(3) ~~has~~ satisfied the board that the applicant is a person who merits the public trust.

(b) The board shall issue a license as a master social worker to an applicant who *has*:

(1) ~~Has~~ A master's degree from an accredited college or university, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) ~~has~~ passed an examination approved by the board for this purpose; and

(3) ~~has~~ satisfied the board that the applicant is a person who merits the public trust.

(c) The board shall issue a license in one of the social work specialties to an applicant who *has*:

(1) ~~Has~~ A master's or doctor's degree from an accredited graduate school of social work, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) ~~has~~ had two years of full-time post-master's or post-doctor's degree experience under the supervision of a licensed social worker in the area of the specialty in which such applicant seeks to be licensed;

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

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

(d) (1) The board shall issue a license as a specialist clinical social worker to an applicant who:

(A) Has met the requirements of subsection (c);

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (c) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of the following content areas: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual~~, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board~~;

(D) has completed as part of or in addition to the requirements of subsection (c) not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 3,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 100 hours of *face-to-face* clinical supervision, *as defined by the board in rules and regulations,* including not less than ~~75~~ *50* hours of ~~person-to-person~~ individual supervision, *except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances,* integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual;

(E) for persons earning a degree under subsection (c) prior to July 1, 2003, in lieu of the education and training requirements under ~~parts~~ *subparagraphs* (B) and (C) ~~of this subsection~~, has completed the education requirements for licensure as a specialist clinical social worker in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary license to practice as a specialist clinical social worker on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under ~~parts~~ *subparagraphs* (B), (C) and (D) ~~of this subsection~~, has completed the education and training requirements for licensure as a specialist clinical social worker in effect on the day immediately preceding the effective date of this act;

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

(H) has paid the application fee.

(2) A licensed specialist clinical social worker may engage in the social work practice and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed specialist clinical social worker shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed specialist clinical social worker may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(3) Notwithstanding any other provision of this subsection, a licensed master social worker who has provided to the board an acceptable clinical supervision plan for licensure as a specialist clinical social worker prior to the effective date of this act shall be licensed as a specialist clinical social worker under this act upon completion of the requirements in effect for licensure as a specialist clinical social worker at the time the acceptable training plan is submitted to the board.

(4) A person licensed as a specialist clinical social worker on the day immediately preceding the effective date of this act shall be deemed to be a licensed specialist clinical social worker under this act. Such person shall not be required to file an original application for licensure as a specialist clinical social worker under this act.

(e) The board shall adopt rules and regulations establishing the criteria which a social work program of a college or university shall satisfy to be recognized and approved by the board under this section. The board may send a questionnaire developed by the board to any college or university conducting a social work program for which the board does not have sufficient information to determine whether the program should be recognized and approved by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to

the board in order for the program to be considered for recognition and approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about a social work program of a college or university. In entering such contracts the authority to recognize and approve a social work program of a college or university shall remain solely with the board.

Sec. 19. K.S.A. 65-6309a is hereby amended to read as follows: 65-6309a. (a) Upon written application and board approval, an individual who is licensed to engage in the independent clinical practice of social work at the clinical level in another jurisdiction ~~and~~, who is in good standing in that other jurisdiction *and who has engaged in the clinical practice of social work in that jurisdiction* may engage in the independent practice of clinical social work as provided by K.S.A. 65-6308, and amendments thereto, in this state for ~~no~~ *not* more than ~~15~~ *30* days per year upon receipt of a temporary permit to practice issued by the board. *Such individual engaging in such practice in this state shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state.*

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

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire ~~December 31 of that year~~ *one year after issuance*. Upon written application ~~and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days~~ *not later than 30 days before the expiration of a temporary permit and under emergency circumstances, as defined by the board, the board may extend the temporary permit for not more than one additional year. Such extended temporary permit shall authorize the individual to practice in this state for an additional 30 days during the additional year. Such individual engaging in such practice shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state*.

(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.

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

(f) In accordance with the Kansas administrative procedure act, the board may issue a cease and desist order or assess a fine of up to $1,000 per day, or both, against a person licensed in another jurisdiction who

engages in the independent practice of clinical social work in this state without complying with the provisions of this section.

(g) This section shall be *a* part of and supplemental to article 63 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 20. K.S.A. 65-6311 is hereby amended to read as follows: 65-6311. (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed $1,000 per violation upon a finding that a licensee or an applicant for license:

(1) Is incompetent to practice social work~~, which~~. *"Incompetent to practice social work"* means:

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

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

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

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

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

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

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

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

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

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

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

(10) has had a *professional* license, registration or certificate~~ to practice social work~~ revoked, suspended or limited, or has had other disciplinary

action taken, or an application for a license, registration or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof*; or*

(11) has violated any lawful order or directive of the board previously entered by the board.

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

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

Sec. 21. K.S.A. 65-6404 is hereby amended to read as follows: 65-6404. (a) An applicant for licensure as a marriage and family therapist shall furnish evidence that the applicant *has*:

(1) ~~Has~~ Attained ~~the age of~~ 21 *years of age*;

(2) (A) ~~has~~ completed a master's or doctoral degree from a marriage and family therapy program, in an educational institution with standards approved by the board; ~~or~~ (B) has completed a master's or doctoral degree from an educational institution in a related field for which the course work is considered by the board to be equivalent to that provided in ~~clause (2)~~ *subparagraph* (A) ~~of this paragraph~~ and consists of a minimum of nine semester hours in human development, nine semester hours in theories of marriage and family functioning, nine semester hours of marital and family assessment and therapy, three semester hours in professional studies and three semester hours in research; or (C) completed a master's or doctoral degree from an educational institution in a related field with additional work from an educational program in marriage and family therapy approved by the board and such degree program and additional work includes the course work requirements provided in ~~clause (2)~~ *subparagraph* (B) ~~of this paragraph~~;

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

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

(5) ~~each applicant~~ has paid the application fee established by the board under K.S.A. 65-6411, and amendments thereto.

(b) (1) Applications for licensure as a clinical marriage and family therapist shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed marriage and family therapist or meets all requirements for licensure as a marriage and family therapist;

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (a) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of the following content areas: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than ~~4,000~~ *3,000* hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than ~~150~~ *100* hours of *face-to-face* clinical supervision, *as defined by the board in rules and regulations,* including not less than 50 hours of ~~person-to-person~~ individual supervision, *except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances,* integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, except that ~~one-half~~ *the board may waive ½* of the ~~requirement of~~ *hours required by* this ~~part (D) may be waived~~ *subparagraph* for ~~persons with~~ *an individual who has* a doctor's degree in marriage and family therapy or a related field acceptable to the board *and who completes the required ½ of the hours in not less than one year of supervised professional experience*;

(E) for persons ~~earning~~ *who earned* a degree under subsection (a) prior to July 1, 2003, in lieu of the education and training requirements under ~~parts~~ *subparagraphs* (B) and (C) ~~of this subsection~~, has completed the education requirements for licensure as a marriage and family therapist in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary permit to practice as a licensed marriage and family therapist on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under ~~parts~~ *subparagraphs* (B), (C) and (D) ~~of this subsection~~, has completed the education and training requirements for

licensure as a marriage and family therapist in effect on the day immediately preceding the effective date of this act;

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

(H) has paid the application fee fixed under K.S.A. 65-6411, and amendments thereto.

(2) A person who was licensed or registered as a marriage and family therapist in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of marriage and family therapy as a registered or licensed marriage and family therapist within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical marriage and family therapist by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

(A) Either*:* (i) Graduate coursework*;* or (ii) passing a national, clinical examination;

(B) either*:* (i) Three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital*;* or (ii) three years of clinical practice in other settings with demonstrated experience in diagnosing or treating mental disorders; or

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

(3) A licensed clinical marriage and family therapist may engage in the independent practice of marriage and family therapy and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical marriage and family therapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical marriage and family therapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(4) On and after January 1, 2002, a licensed marriage and family therapist may diagnose and treat mental disorders ~~specified in the edition of the diagnostic and statistical manual of mental disorders~~ specified in the

edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations only under the direction of a licensed clinical marriage and family therapist, licensed psychologist, person licensed to practice medicine and surgery or person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders. When a client has symptoms of a mental disorder, a licensed marriage and family therapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed marriage and family therapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

Sec. 22. K.S.A. 65-6405a is hereby amended to read as follows: 65-6405a. (a) Upon written application and board approval, an individual who is licensed to engage in the independent clinical practice of marriage and family therapy at the clinical level in another jurisdiction ~~and~~, who is in good standing in that other jurisdiction *and who has engaged in the clinical practice of marriage and family therapy in that jurisdiction for at least two years immediately preceding application* may engage in the independent practice of clinical marriage and family therapy as provided by K.S.A. 65-6401 et seq., and amendments thereto, in this state for ~~no~~ *not* more than ~~15~~ *30* days per year upon receipt of a temporary permit to practice issued by the board. *Such individual engaging in such practice in this state shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state.*

(b) Any clinical marriage and family therapy services rendered within any 24-hour period shall count as one entire day of clinical marriage and family therapy services.

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire ~~December 31 of that year~~ *one year after issuance*. Upon written application ~~and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days~~ *not later than 30 days before the expiration of a temporary permit and under emergency circumstances, as defined by the board, the board may extend the temporary permit for not more than one additional year. Such extended temporary permit shall authorize the individual to practice in this state for an additional 30 days during the additional year. Such individual engaging in such practice shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state*.

(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.

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

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

(g) This section shall be *a* part of and supplemental to the marriage and family therapists licensure act.

Sec. 23. K.S.A. 65-6408 is hereby amended to read as follows: 65-6408. (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed $1,000 per violation upon a finding that a licensee or an applicant for license:

(1) Is incompetent to practice marriage and family therapy~~, which~~. *"Incompetent to practice marriage and family therapy"* means:

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

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

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

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

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

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

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

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

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

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

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

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

(11) has violated any lawful order or directive of the board previously entered by the board.

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

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

Sec. 24. K.S.A. 2020 Supp. 65-6411 is hereby amended to read as follows: 65-6411. (a) The board may fix the following fees, and any such fees shall be established by rules and regulations adopted by the board:

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

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

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

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

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

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

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

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

(9) for replacement of a license, not to exceed $20;

(10) for renewal penalty, an amount equal to the renewal of license; ~~and~~

(11) for a wallet card license, not to exceed $5*; and*

(12) for application for approval as a board-approved clinical supervisor, not to exceed $50.

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

Sec. 25. K.S.A. 65-6610 is hereby amended to read as follows: 65-6610. (a) An applicant for licensure as an addiction counselor shall furnish evidence that the applicant:

(1) Has attained ~~the age of~~ 21 *years of age*;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than ~~4,000~~ *3,000* hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than ~~150~~ *100* hours of *face-to-face* clinical supervision, *as defined by the board in rules and regulations,* including not less than 50 hours of ~~person-to-person~~ individual supervision, *except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances,* integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association~~; or has completed not less than one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders~~

~~with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board~~, *except that the board may waive ½ of the hours required by this clause for an individual who has a doctoral degree in addiction counseling or a related field approved by the board and who completes the required ½ of the hours in not less than one year of supervised professional experience*; or

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

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than ~~4,000~~ *3,000* hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than ~~150~~ *100* hours of *face-to-face* clinical supervision, *as defined by the board in rules and regulations,* including not less than 50 hours of ~~person-to-person~~ individual supervision, *except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances*, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association~~; or has completed not less than one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board~~, *except that the board may waive ½ of the hours required by this clause for an individual who has a doctoral degree in addiction counseling or a related field approved by the board and who completes the required ½ of the hours in not less than one year of supervised professional experience*; or

(C) (i) has completed a master's degree from a college or university approved by the board and is licensed by the board as a licensed master's addiction counselor; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than ~~4,000~~ *3,000* hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than ~~150~~ *100* hours of *face-to-face* clinical supervision, *as defined by the board in rules and regulations,* including not less than 50 hours of ~~person-to-person~~ individual supervision, *except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances,* integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association~~; or has completed not less than one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board~~, *except that the board may waive ½ of the hours required by this clause for an individual who has a doctoral degree in addiction counseling or a related field approved by the board and who completes the required ½ of the hours in not less than one year of supervised professional experience*; or

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

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

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

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

Sec. 26. K.S.A. 65-6612 is hereby amended to read as follows: 65-6612. (a) Upon written application and board approval, an individual who is licensed to engage in the independent clinical practice of addiction counsel-

ing at the clinical level in another jurisdiction ~~and~~, who is in good standing in that other jurisdiction *and who has engaged in the clinical practice of addiction counseling in that jurisdiction for at least two years immediately preceding application* may engage in the independent practice of clinical addiction counseling as provided by the addiction counselor licensure act~~,~~ in this state for not more than ~~15~~ *30* days per year upon receipt of a temporary permit to practice issued by the board. *Such individual engaging in such practice shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state.*

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

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire ~~December 31 of that year~~ *one year after issuance*. Upon written application ~~and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days~~ *not later than 30 days before the expiration of a temporary permit and under emergency circumstances, as defined by the board, the board may extend the temporary permit for not more than one additional year. Such extended temporary permit shall authorize the individual to practice in this state for an additional 30 days during the additional year. Such individual engaging in such practice shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state*.

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

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

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

Sec. 27. K.S.A. 65-6615 is hereby amended to read as follows: 65-6615. (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed $1,000 per violation upon a finding that a licensee or an applicant for license:

(1) Is incompetent to practice addiction counseling~~, which~~. *"Incompetent to practice addiction counseling"* means:

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

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

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

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

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

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

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

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

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

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

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

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

(11) has violated any lawful order or directive of the board previously entered by the board.

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

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

Sec. 28. K.S.A. 74-5316a is hereby amended to read as follows: 74-5316a. (a) Upon written application and board approval, an individual who is licensed to engage in the independent practice of psychology in another jurisdiction ~~and~~, who is in good standing in that other jurisdiction *and who has engaged in the practice of psychology in that jurisdiction for at least two years immediately preceding application* may engage in the independent practice of psychology as provided by K.S.A. 74-5301 et seq., and amendments thereto, in this state for ~~no~~ *not* more than ~~15~~ *30* days per year upon receipt of a temporary permit to practice issued by the board. *Such individual engaging in such practice in this state shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state.*

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

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire ~~December 31 of that year~~ *one year after issuance*. Upon written application ~~and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days~~ *not later than 30 days before the expiration of a temporary permit and under emergency circumstances, as defined by the board, the board may extend the temporary permit for not more than one additional year. Such extended temporary permit shall authorize the individual to practice in this state for an additional 30 days during the additional year. Such individual engaging in such practice shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state*.

(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.

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

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

(g) This section shall be *a* part of and supplemental to the licensure of psychologists act.

Sec. 29. K.S.A. 74-5324 is hereby amended to read as follows: 74-5324. (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed $1,000 per violation upon a finding that a licensee or an applicant for a license:

(1) Is incompetent to practice psychology~~, which~~. *"Incompetent to practice psychology"* means:

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

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

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

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

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

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

(5) has violated a provision of the licensure of psychologists act of the state of Kansas or one or more rules and regulations of the board;

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

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

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

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

(10) has had a *professional* registration, license or certificate~~ as a psychologist~~ revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of

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

(11) has violated any lawful order or directive of the board previously entered by the board.

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

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

Sec. 30. K.S.A. 74-5363 is hereby amended to read as follows: 74-5363. (a) Any person who desires to be licensed under this act shall apply to the board in writing, on forms prepared and furnished by the board. Each application shall contain appropriate documentation of the particular qualifications required by the board and shall be accompanied by the required fee.

(b) The board shall license as a licensed master's level psychologist any applicant for licensure who pays the fee prescribed by the board under K.S.A. 74-5365, and amendments thereto, which shall not be refunded, who has satisfied the board as to such applicant's training and who complies with the provisions of this subsection. An applicant for licensure also shall submit evidence satisfactory to the board that such applicant:

(1) Is at least 21 years of age;

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

(3) has received at least 60 graduate hours including a master's degree in psychology based on a program of studies in psychology from an educational institution having a graduate program in psychology consistent with state universities of Kansas; or until July 1, 2003, has received at least a master's degree in psychology and during such master's or post-master's coursework completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology; or has passed comprehensive examinations or equivalent final examinations in a doctoral program in psychology and during such graduate program

completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology;

(4) has completed 750 clock hours of academically supervised practicum in the master's degree program or 1,500 clock hours of postgraduate supervised work experience; *and*

(5) has passed an examination approved by the board with a minimum score set by the board by rules and regulations.

(c) (1) Applications for licensure as a clinical psychotherapist shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed master's level psychologist or meets all requirements for licensure as a master's level psychologist;

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (b) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than ~~4,000~~ *3,000* hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than ~~150~~ *100* hours of *face-to-face* clinical supervision, *as defined by the board in rules and regulations,* including not less than 50 hours of ~~person-to-person~~ individual supervision, *except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances,* integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual;

(E) for persons earning a degree under subsection (b) prior to July 1, 2003, in lieu of the education requirements under subparagraphs (B) and (C), has completed the education requirements for licensure as a licensed master's level psychologist in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary license to practice as a licensed master's level psychologist on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under subparagraphs (B), (C) and (D), has completed the education and training requirements for licensure as a master's level psychologist in effect on the day immediately preceding the effective date of this act;

(G) has passed an examination approved by the board with the same minimum passing score as that set by the board for licensed psychologists; and

(H) has paid the application fee, if required by the board.

(2) A person who was licensed or registered as a master's level psychologist in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of master's level psychology as a registered or licensed master's level psychologist within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical psychotherapist by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

(A) Either: (i) Graduate coursework; or (ii) passing a national, clinical examination;

(B) either: (i) Three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital; or (ii) three years of clinical practice in other settings with demonstrated experience in diagnosing or treating mental disorders; or

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

(3) A licensed clinical psychotherapist may engage in the independent practice of master's level psychology and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical psychotherapist

shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical psychotherapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(d) The board shall adopt rules and regulations establishing the criteria ~~which~~ *that* an educational institution shall satisfy in meeting the requirements established under subsection (b)(3). The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of subsection (b)(3) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 31. K.S.A. 74-5367a is hereby amended to read as follows: 74-5367a. (a) Upon written application and board approval, an individual who is licensed to engage in the independent clinical practice of masters level psychology at the clinical level in another jurisdiction ~~and~~, who is in good standing in that other jurisdiction *and who has engaged in the clinical practice of masters level psychology in that jurisdiction for at least two years immediately preceding application* may engage in the independent practice of clinical masters level psychology as provided by K.S.A. 74-5361 et seq., and amendments thereto, in this state for ~~no~~ *not* more than ~~15~~ *30* days per year upon receipt of a temporary permit to practice issued by the board. *Such individual engaging in such practice in this state shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state.*

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

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire ~~December 31 of that year~~ *one year after issuance*. Upon written application ~~and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days~~ *not later than 30 days before the expiration of a temporary permit and under emergency circumstances, as defined by the board, the board may extend the temporary permit for not more than one additional year. Such*

extended temporary permit shall authorize the individual to practice in this state for an additional 30 days during the additional year. Such individual engaging in such practice shall provide quarterly reports to the board on a form approved by the board detailing the total days of practice in this state.

(d) The board may charge a fee of a maximum of $200 for a temporary permit to practice and a fee of a maximum of $200 for an extension of a temporary permit to practice as established by rules and regulations of the board.

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

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

(g) This act shall be *a* part of and supplemental to the licensure of masters level psychologists act.

Sec. 32. K.S.A. 74-5369 is hereby amended to read as follows: 74-5369. (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed $1,000 per violation upon a finding that a licensee or an applicant for licensure:

(1) Is incompetent to practice psychology~~, which~~. *"Incompetent to practice psychology"* means:

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

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

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice master's level psychology;

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

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

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect

by any state agency, agency of another state, *the District of Columbia* or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the licensure of master's level psychologists act or one or more rules and regulations of the board;

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

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

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

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

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

(11) has violated any lawful order or directive of the board previously entered by the board.

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

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

Sec. 33. K.S.A. 65-425, 65-431, 65-5804a, 65-5807a, 65-5808, 65-5809, 65-6309a, 65-6311, 65-6404, 65-6405a, 65-6408, 65-6610, 65-6612, 65-6615, 74-5316a, 74-5324, 74-5363, 74-5367a and 74-5369 and K.S.A. 2020 Supp. 65-6306 and 65-6411 are hereby repealed.

Sec. 34. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 22, 2021.

Published in the *Kansas Register* May 6, 2021.

CHAPTER 89

SENATE BILL No. 127

AN ACT concerning drivers' licenses; relating to online renewals of commercial driver's licenses and licenses for individuals up to 65 years of age; providing for the renewal of licenses to be delivered electronically; eligibility for restricted driving privileges; renewal of expired licenses and identification cards; permitting the waiver of traffic fines and court costs in certain manifest hardship situations; providing an exclusion from the additional 90-day period for suspended or revoked licenses; amending K.S.A. 2020 Supp. 8-240, 8-247, 8-262, 8-1325 and 8-2110 and repealing the existing sections; also repealing K.S.A. 2020 Supp. 8-2110b.

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

Section 1. K.S.A. 2020 Supp. 8-240 is hereby amended to read as follows: 8-240. (a) (1) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of $2 for class A, B, C or M and $5 for all commercial classes. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of $3, unless a different fee is required by K.S.A. 8-241, and amendments thereto, and by the proper fee for the license for which the application is made. All commercial class applicants shall be charged a $15 driving test fee for the drive test portion of the commercial driver's license application. If the applicant is not required to take an examination or the commercial license drive test, the examination or commercial drive test fee shall not be required. The examination shall consist of three tests, as follows: (A) Vision; (B) written; and (C) driving. For a commercial driver's license, the drive test shall consist of three components, as follows: (A) Pre-trip; (B) skills test; and (C) road test. If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without any additional fee. If an applicant fails the written test, the applicant may take such test again upon the payment of an additional examination fee of $1.50. If an applicant fails the driving test, the applicant may take such test again upon the payment of an additional examination fee of $1.50. If an applicant for a commercial driver's license fails any portion of the commercial drive test, the applicant may take such test again upon the payment of an additional drive test fee of $10. If an applicant fails to pass all three of the tests within a period of six months from the date of original application and desires to take additional tests, the applicant shall file an application for reexamination upon a form furnished by the division, which shall be accompanied by a reexamination fee of $3, except that any applicant who fails to pass the written or driving portion of an examination four times within a six-month period, shall be required to wait a period of six months from the date of the last failed examination before additional examinations may

be given. Upon the filing of such application and the payment of such reexamination fee, the applicant shall be entitled to reexamination in like manner and subject to the additional fees and time limitation as provided for examination on an original application. If the applicant passes the reexamination, the applicant shall be issued the classified driver's license for which the applicant originally applied, which license shall be issued to expire as if the applicant had passed the original examination.

(2) Applicants for class M licenses who have completed prior motorcycle safety training in accordance with department of defense instruction 6055.04 (DoDI 6055.04) or the motorcycle safety foundation are not required to complete further written and driving testing pursuant to paragraph (1). An applicant seeking exemption from the written and driving tests pursuant to this paragraph shall provide a copy of the motorcycle safety foundation completion form to the division prior to receiving a class M license.

(3) On and after January 1, 2017, an applicant for a class M license who passes a driving examination on a three-wheeled motorcycle ~~which~~ *that* is not an autocycle shall have a restriction placed on such applicant's license limiting the applicant to the operation of a registered three-wheeled motorcycle. An applicant for a class M license who passes a driving examination on a two-wheeled motorcycle may operate any registered two-wheeled or three-wheeled motorcycle. The driving examination required by this paragraph shall be administered by the division, by the department of defense or as part of a curriculum recognized by the motorcycle safety foundation.

(b) (1) For the purposes of obtaining any driver's license or instruction permit, an applicant shall submit, with the application, proof of age and proof of identity as the division may require. The applicant also shall provide a photo identity document, except that a non-photo identity document is acceptable if it includes both the applicant's full legal name and date of birth, and documentation showing the applicant's name, the applicant's address of principal residence and the applicant's social security number. The applicant's social security number shall remain confidential and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012, and amendments thereto. If the applicant does not have a social security number the applicant shall provide proof of lawful presence and Kansas residency. The division shall assign a distinguishing number to the license or permit.

(2) The division shall not issue any driver's license or instruction permit to any person who fails to provide proof that the person is lawfully present in the United States. Before issuing a driver's license or instruction permit to a person, the division shall require valid documentary evidence that the applicant: (A) Is a citizen or national of the United States; (B) is an alien lawfully admitted for permanent or temporary residence in

the United States; (C) has conditional permanent resident status in the United States; (D) has an approved application for asylum in the United States or has entered into the United States in refugee status; (E) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States; (F) has a pending application for asylum in the United States; (G) has a pending or approved application for temporary protected status in the United States; (H) has approved deferred action status; or (I) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(3) If an applicant provides evidence of lawful presence set out in subsections (b)(2)(E) through (2)(I), or is an alien lawfully admitted for temporary residence under subsection (b)(2)(B), the division may only issue a driver's license to the person under the following conditions: (A) A driver's license issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year; (B) a driver's license issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires; (C) no driver's license issued pursuant to this subparagraph shall be for a longer period of time than the time period permitted by K.S.A. 8-247(a), and amendments thereto; and (D) a driver's license issued pursuant to this subparagraph may be renewed, subject at the time of renewal, to the same requirements and conditions as set out in this subsection (b) for the issuance of the original driver's license.

(4) The division shall not issue any driver's license or instruction permit to any person who is not a resident of the state of Kansas, except as provided in K.S.A. 8-2,148, and amendments thereto.

(5) The division shall not issue a driver's license to a person holding a driver's license issued by another state without making reasonable efforts to confirm that the person is terminating or has terminated the driver's license in the other state.

(6) The parent or guardian of an applicant under 16 years of age shall sign the application for any driver's license submitted by such applicant.

(c) Every application shall state the full legal name, date of birth, gender and address of principal residence of the applicant, and briefly describe the applicant, and shall state whether the applicant has been licensed as a driver prior to such application, and, if so, when and by what state or country. Such application shall state whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal. In addition, applications for commercial drivers' licenses and instruction permits for commercial licenses must include the following:

The applicant's social security number; the person's signature; the person's: (1) Digital color image or photograph; or (2) a laser engraved photograph; certifications, including those required by 49 C.F.R. § 383.71(a), effective January 1, 1991; a consent to release driving record information; and, any other information required by the division. Each application for a driver's license shall include a question asking if the applicant is willing to give such applicant's authorization to be listed as an organ, eye or tissue donor in the Kansas donor registry in accordance with the revised uniform anatomical gift act, K.S.A. 65-3220 through 65-3244, and amendments *thereto*. The gift would become effective upon the death of the donor.

(d) When an application is received from a person previously licensed in another jurisdiction, the division shall request a copy of the driver's record from the other jurisdiction. When received, the driver's record shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(e) When the division receives a request for a driver's record from another licensing jurisdiction the record shall be forwarded without charge.

(f) A fee shall be charged as follows:

(1) For a class C driver's license issued to a person at least 21 years of age, but less than 65 years of age, $18;

(2) for a class C driver's license issued to a person 65 years of age or older, $12;

(3) for a class M driver's license issued to a person at least 21 years of age, but less than 65 years of age, $12.50;

(4) for a class M driver's license issued to a person 65 years of age or older, $9;

(5) for a class A or B driver's license issued to a person who is at least 21 years of age, but less than 65 years of age, $24;

(6) for a class A or B driver's license issued to a person 65 years of age or older, $16;

(7) for any class of commercial driver's license issued to a person 21 years of age or older, $18; or

(8) for class A, B, C or M, or a farm permit, or any commercial driver's license issued to a person less than 21 years of age, $20.

A fee of $10 shall be charged for each commercial driver's license endorsement, except air brake endorsements which shall have no charge.

A fee of $3 per year shall be charged for any renewal of a license issued prior to the effective date of this act to a person less than 21 years of age.

If one fails to make an original application or renewal application for a driver's license within the time required by law, or fails to make application within 60 days after becoming a resident of Kansas, a penalty of $1 shall be added to the fee charged for the driver's license.

(g) Any person who possesses an identification card as provided in K.S.A. 8-1324, and amendments thereto, shall surrender such identification card to the division upon being issued a valid Kansas driver's license or upon reinstatement and return of a valid Kansas driver's license.

(h) The division shall require that any person applying for a driver's license submit to a mandatory facial image capture. The captured facial image shall be displayed on the front of the applicant's driver's license.

(i) The director of vehicles may issue a temporary driver's license to an applicant who cannot provide valid documentary evidence as defined by subsection (b)(2), if the applicant provides compelling evidence proving current lawful presence. Any temporary license issued pursuant to this subsection shall be valid for one year.

(j) (1) For purposes of this subsection, the division may rely on the division's most recent, existing color digital image and signature image of the applicant for the class C or M driver's license *or any class of commercial driver's license* if the division has the information on file. The determination on whether an electronic online renewal application or equivalent of a driver's license is permitted shall be made by the director of vehicles or the director's designee. The division shall not renew a driver's license through an electronic online or equivalent process if the license has been previously renewed through an electronic online application in the immediately preceding driver's license period. No renewal under this subsection shall be granted to any person who is:

(A) Younger than 30 days from turning 21 years of age;

(B) 65 years of age or older;

(C) a registered offender pursuant to K.S.A. 22-4901 et seq., and amendments thereto;~~ or~~

(D) ~~has~~ *a person issued* a temporary driver's license issued pursuant to K.S.A. 8-240(b)(3), and amendments thereto, provided the license is not otherwise withdrawn*; or*

(E) a person issued a commercial driver's license that has a hazardous materials endorsement.

(2) The vision examination requirements in K.S.A. 8-247(e), and amendments thereto, are not required for electronic online renewal applications, except that the electronic online renewal applicant must certify under penalty of law that the applicant's vision satisfies the requirements of K.S.A. 8-295, and amendments thereto, and has undergone an examination of eyesight by a licensed ophthalmologist or a licensed optometrist within the last year. As a condition for any electronic online renewal application, the applicant must: (A) Authorize the exchange of vision and medical information between the division and the applicant's ophthalmologist or optometrist; and (B) is at least 21 years of age, but less than ~~50~~ *65* years of age. The ophthalmologist or optometrist shall have four business days

to confirm or deny the vision and medical information of the applicant. If no response is received by the division, the division shall accept the vision and medical information provided for processing the renewal application. The waiver of vision examination for online renewal applications contained within this subsection shall expire on July 1, 2022.

(3) The secretary of revenue shall adopt and administer rules and regulations to implement a program to permit an electronic online renewal of a driver's license, including, but not limited to, requirements that an electronic online renewal applicant shall have previously provided documentation of identity, lawful presence and residence to the division for electronic scanning.

(4) Prior to February 1, 2022, the division shall report to the house and senate committees on transportation regarding the online renewal process of this subsection and its effects to safety on the state's roads and highways.

(5) Any person seeking to renew a commercial driver's license pursuant to this subsection shall be required to provide the division with a valid medical examiner's certificate and proof of completion of the truckers against trafficking training.

Sec. 2. K.S.A. 2020 Supp. 8-247 is hereby amended to read as follows: 8-247. (a) (1) All original licenses issued on and after July 1, 2018, shall expire as follows:

(A) Licenses issued to persons who are at least 21 years of age, but less than 65 years of age shall expire on the sixth anniversary of the date of birth of the licensee ~~which~~ *that* is nearest the date of application;

(B) licenses issued to persons who are 65 years of age or older shall expire on the fourth anniversary of the date of birth of the licensee ~~which~~ *that* is nearest the date of application;

(C) any commercial drivers license shall expire on the fifth anniversary of the date of birth of the licensee ~~which~~ *that* is nearest the date of application;

(D) licenses issued to an offender, as defined in K.S.A. 22-4902, and amendments thereto, who is required to register pursuant to the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall expire every year on the date of birth of the licensee; or

(E) licenses issued to persons who are less than 21 years of age shall expire on the licensee's 21st birthday.

(2) All renewals under: (A) Paragraph (1)(A) shall expire on every sixth anniversary of the date of birth of the licensee; (B) paragraph (1)(B) shall expire on every fourth anniversary of the date of birth of the licensee; (C) paragraph (1)(C) shall expire on every fifth anniversary of the date of birth of the licensee; (D) paragraph (1)(D) shall expire every year on the date of birth of the licensee; and (E) paragraph (1)(E), if a renewal license is issued, shall expire on the licensee's 21st birthday. No driver's license shall expire

in the same calendar year ~~in which~~ *when* the original license or renewal license is issued, except that if the foregoing provisions of this section shall require the issuance of a renewal license or an original license for a period of less than six calendar months, the license issued to the applicant shall expire in accordance with the provisions of this subsection.

(b) If the driver's license of any person expires while such person is outside of the state of Kansas and such person is on active duty in the armed forces of the United States, or is the spouse or a person who is residing with and is a dependent of such person on active duty, the license of such person shall be renewable, without examination, at any time prior to the end of the sixth month following the discharge of such person from the armed forces, or within 90 days after residence within the state is reestablished, whichever time is sooner. If the driver's license of any person under this subsection expires while such person is outside the United States, the division shall provide for renewal by mail, as long as the division has a photograph or digital image of such person maintained in the division's records. A driver's license renewed under the provisions of this subsection shall be renewed by mail only once.

(c) At least 30 days prior to the expiration of a person's license the division shall mail, *or send electronically if authorized by the person,* a notice of expiration or renewal application to such person at the address shown on the license *or the electronic mail address provided to the division*. The division shall include with such notice a written explanation of substantial changes to traffic regulations enacted by the legislature.

(d) (1) Except as provided in paragraph (2) *and (3)*, every driver's license shall be renewable on or before its expiration upon application and payment of the required fee and successful completion of the examinations required by subsection (e). Application for renewal of a valid driver's license shall be made to the division in accordance with rules and regulations adopted by the secretary of revenue. Such application shall contain all the requirements of K.S.A. 8-240(b), and amendments thereto. Such notice shall also include a question asking if the applicant is willing to give such applicant's authorization to be listed as an organ, eye and tissue donor in the Kansas donor registry in accordance with the revised uniform anatomical gift act, K.S.A. 65-3220 through 65-3244, and amendments thereto. Upon satisfying the foregoing requirements of this subsection, and if the division makes the findings required by K.S.A. 8-235b, and amendments thereto, for the issuance of an original license, the license shall be renewed without examination of the applicant's driving ability. If the division finds that any of the statements relating to revocation, suspension or refusal of licenses required under K.S.A. 8-240(b), and amendments thereto, are in the affirmative, or if it finds that the license held by the applicant is not a valid one, or if the applicant has failed to make appli-

cation for renewal of such person's license on or before the expiration date thereof, the division may require the applicant to take an examination of ability to exercise ordinary and reasonable control in the operation of a motor vehicle as provided in K.S.A. 8-235d, and amendments thereto.

(2) Any licensee, whose driver's license expires on the licensee's 21st birthday, shall have 45 days from the date of expiration of such license to make application to renew such licensee's license. Such license shall continue to be valid for such 45 days or until such license is renewed, whichever occurs sooner. A licensee who renews under the provisions of this paragraph shall not be required by the division to take an examination of ability to exercise ordinary and reasonable control in the operation of a motor vehicle as provided in K.S.A. 8-235d, and amendments thereto.

(3) Any licensee, whose driver's license has expired after March 12, 2020, and before March 31, 2021, shall have until June 30, 2021, to renew such licensee's driver's license.

(e) (1) Prior to renewal of a driver's license, the applicant shall pass an examination of eyesight. Such examination shall be equivalent to the test required for an original driver's license under K.S.A. 8-235d, and amendments thereto. A driver's license examiner shall administer the examination without charge and shall report the results of the examination on a form provided by the division.

(2) In lieu of the examination of the applicant's eyesight by the examiner, the applicant may submit a report on the examination of eyesight by a physician licensed to practice medicine and surgery or by a licensed optometrist. The report shall be based on an examination of the applicant's eyesight not more than three months prior to the date the report is submitted, and it shall be made on a form furnished by the division to the applicant.

(3) The division shall determine whether the results of the eyesight examination or report is sufficient for renewal of the license and, if the results of the eyesight examination or report is insufficient, the division shall notify the applicant of such fact and return the license fee. In determining the sufficiency of an applicant's eyesight, the division may request an advisory opinion of the medical advisory board, ~~which~~ *and the board* is hereby authorized to render such opinions.

(4) An applicant who is denied a license under this subsection ~~(e)~~ may reapply for renewal of such person's driver's license, except that if such application is not made within 90 days of the date the division sent notice to the applicant that the license would not be renewed, the applicant shall proceed as if applying for an original driver's license.

(5) When the division has good cause to believe that an applicant for renewal of a driver's license is incompetent or otherwise not qualified to operate a motor vehicle in accord with the public safety and welfare, the di-

vision may require such applicant to submit to such additional examinations as are necessary to determine that the applicant is qualified to receive the license applied for. Subject to paragraph (6), in so evaluating such qualifications, the division may request an advisory opinion of the medical advisory board ~~which~~*, and the board* is hereby authorized to render such opinions in addition to its duties prescribed by K.S.A. 8-255b(b), and amendments thereto. Any such applicant who is denied the renewal of such a driver's license because of a mental or physical disability shall be afforded a hearing in the manner prescribed by K.S.A. 8-255(c), and amendments thereto.

(6) Seizure disorders ~~which~~ *that* are controlled shall not be considered a disability. In cases where such seizure disorders are not controlled, the director or the medical advisory board may recommend that such person be issued a driver's license to drive class C or M vehicles and restricted to operating such vehicles as the division determines to be appropriate to assure the safe operation of a motor vehicle by the licensee. Restricted licenses issued pursuant to this paragraph shall be subject to suspension or revocation. For the purpose of this paragraph, seizure disorders ~~which~~ *that* are controlled means that the licensee has not sustained a seizure involving a loss of consciousness in the waking state within six months preceding the application or renewal of a driver's license and whenever a person licensed to practice medicine and surgery makes a written report to the division stating that the licensee's seizures are controlled. The report shall be based on an examination of the applicant's medical condition not more than three months prior to the date the report is submitted. Such report shall be made on a form furnished to the applicant by the division. Any physician who makes such report shall not be liable for any damages ~~which~~ *that* may be attributable to the issuance or renewal of a driver's license and subsequent operation of a motor vehicle by the licensee.

(f) If the driver's license of any person expires while such person is outside the state of Kansas, the license of such person shall be extended for a period not to exceed six months and shall be renewable, without a driving examination, at any time prior to the end of the sixth month following the original expiration date of such license or within 10 days after such person returns to the state, whichever time is sooner. This subsection shall not apply to temporary drivers' licenses issued pursuant to K.S.A. 8-240(b)(3), and amendments thereto.

(g) *(1)* The division shall reference the website of the agency in a person's notice of expiration or renewal under subsection (c). The division shall provide the following information on the website of the agency:

~~(1)~~*(A)* Information explaining the person's right to make an anatomical gift in accordance with K.S.A. 8-243, and amendments thereto, and the revised uniform anatomical gift act, K.S.A. 65-3220 through 65-3244, and amendments thereto;

~~(2)~~*(B)* information describing the organ donation registry program maintained by the Kansas federally designated organ procurement organization. The information required under this paragraph shall include, in a type, size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Kansas' federally designated organ procurement organization, along with an advisory to call such designated organ procurement organization with questions about the organ donor registry program;

~~(3)~~*(C)* information giving the applicant the opportunity to be placed on the organ donation registry described in ~~paragraph (2);~~ *subparagraph (B); and*

~~(4) inform the applicant~~*(D) information* that, if the applicant indicates under this subsection a willingness to have such applicant's name placed on the organ donor registry described in ~~paragraph (2)~~ *subparagraph (B)*, the division will forward the applicant's name, gender, date of birth and most recent address to the organ donation registry maintained by the Kansas federally designated organ procurement organization, as required by paragraph ~~(6)~~ *(3)*;

~~(5)~~*(2)* the division may fulfill the requirements of paragraph ~~(4)~~ *(1)(D)* by one or more of the following methods:

(A) Providing such information on the website of the agency; or

(B) providing printed material to an applicant who personally appears at an examining station~~; and~~.

~~(6)~~*(3)* If an applicant indicates a willingness under this subsection to have such applicant's name placed on the organ donor registry, the division shall within 10 days forward the applicant's name, gender, date of birth and most recent address to the organ donor registry maintained by the Kansas federally designated organ procurement organization. The division may forward information under this subsection by mail or by electronic means. The division shall not maintain a record of the name or address of an individual who indicates a willingness to have such person's name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have such applicant's name placed on the organ donor registry that is obtained by the division and forwarded under this paragraph shall be confidential and not disclosed.

(h) Notwithstanding any other provisions of law, any offender under subsection (a)(1)(D) who held a valid driver's license on the effective date of this act may continue to operate motor vehicles until the next anniversary of the date of birth of such offender. Upon such date such driver's license shall expire and the offender shall be subject to the provisions of this section.

~~(i) The director of the division of vehicles shall submit a report to the legislature at the beginning of the regular session in 2012 regarding the impact of not requiring a written test for the renewal of a driver's license, including any cost savings to the division.~~

Sec. 3. K.S.A. 2020 Supp. 8-262 is hereby amended to read as follows: 8-262. (a) (1) Any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, shall be guilty of a class B nonperson misdemeanor on the first conviction and a class A nonperson misdemeanor on the second or subsequent conviction.

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(3) Except as otherwise provided by subsection (a)(4) or (c), every person convicted under this section shall be sentenced to at least five days' imprisonment and fined at least $100 and upon a second conviction shall not be eligible for parole until completion of five days' imprisonment.

(4) Except as otherwise provided by subsection (c), if a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes; and (B) is or has been also convicted of a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of any city or resolution of any county or law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(b) *(1) Except as provided by subsection (b)(2),* the division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days.

(2) For any person found guilty of driving a vehicle while the license of such person is suspended for violating K.S.A. 8-2110, and amendments

thereto, such offense shall not extend the additional period of suspension pursuant to subsection (b)(1).

(c) (1) The person found guilty of a class A nonperson misdemeanor on a third or subsequent conviction of this section shall be sentenced to not less than 90 days' imprisonment and fined not less than $1,500 if such person's privilege to drive a motor vehicle is canceled, suspended or revoked because such person:

(A) Refused to submit and complete any test of blood, breath or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;

(B) was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

(C) was convicted of vehicular homicide, K.S.A. 21-3405, prior to its repeal, or K.S.A. 2020 Supp. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as defined in K.S.A. 2020 Supp. 21-5405(a)(3) and (a)(5), and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or

(D) was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.

(2) The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2020 Supp. 21-6609, and amendments thereto, or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

(d) For the purposes of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of another state ~~which~~ *that* is in substantial conformity with this section.

Sec. 4. K.S.A. 2020 Supp. 8-1325 is hereby amended to read as follows: 8-1325. (a) Every identification card shall expire, unless earlier canceled or subsection (c) of K.S.A. 8-1324, and amendments thereto, applies, on the sixth birthday of the applicant following the date of original issue, except as otherwise provided by K.S.A. 8-1329, and amendments thereto. Renewal of any identification card shall be made for a

term of six years and shall expire in a like manner as the originally issued identification card, unless surrendered earlier or subsection (c) of K.S.A. 8-1324, and amendments thereto, applies. For any person who has been issued an identification card, the division shall mail a notice of expiration or renewal at least 30 days prior to the expiration of such person's identification card at the address shown on such identification card. The division shall include with such notice, written information required under subsection (b). Any application for renewal received later than 90 days after expiration of the identification card shall be considered to be an application for an original identification card. The division shall require payment of a fee of $14 for each identification card renewal, except that persons who are 65 or more years of age or who are persons with a disability, as defined in K.S.A. 8-1,124, and amendments thereto, shall be required to pay a fee of ~~only~~ $10. *Any identification card holder, whose identification card has expired after March 12, 2020, and before March 31, 2021, shall have until June 30, 2021, to renew such identification card.*

(b) The division shall reference the website of the agency in a person's notice of expiration or renewal under subsection (a). The division shall provide the following information on the website of the agency:

(1) Information explaining the person's right to make an anatomical gift in accordance with K.S.A. 8-1328, and amendments thereto, and the revised uniform anatomical gift act, K.S.A. 65-3220 through 65-3244, and amendments thereto;

(2) information describing the organ donation registry program maintained by the Kansas federally designated organ procurement organization. The information required under this paragraph shall include, in a type, size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Kansas' federally designated organ procurement organization, along with an advisory to call such designated organ procurement organization with questions about the organ donor registry program;

(3) information giving the applicant the opportunity to be placed on the organ donation registry described in paragraph (2);

(4) inform the applicant that, if the applicant indicates under this subsection a willingness to have such applicant's name placed on the organ donor registry described in paragraph (2), the division will forward the applicant's name, gender, date of birth and most recent address to the organ donation registry maintained by the Kansas federally designated organ procurement organization, as required by paragraph (6);

(5) the division may fulfill the requirements of paragraph (4) by one or more of the following methods:

(A) Providing such information on the website of the agency; or

(B) providing printed material to an applicant who personally applies for an identification card; *and*

(6) if an applicant indicates a willingness under this subsection to have such applicant's name placed on the organ donor registry described, the division shall within 10 days forward the applicant's name, gender, date of birth and address to the organ donor registry maintained by the Kansas federally designated organ procurement organization. The division may forward information under this subsection by mail or by electronic means. The division shall not maintain a record of the name or address of an individual who indicates a willingness to have such person's name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have such applicant's name placed on the organ donor registry that is obtained by the division and forwarded under this paragraph shall be confidential and not disclosed.

Sec. 5. K.S.A. 2020 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); *and* (iii) the traffic citation that resulted in the failure to comply pursuant to subsection (b)(1) was issued in this state~~; and (iv) the individual has not previously received a stayed suspension as a result of a driving while suspended conviction~~.

(C) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of vehicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended by the division of vehicles until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension action. When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances: (i) In going to or returning from the person's place of employment or schooling; (ii) in the course of the per-

son'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. 2020 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. 2020 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.

(e) *(1)* A person who is assessed a reinstatement fee pursuant to subsection (c) may petition the court that assessed the fee at any time to waive payment of the fee, any additional charge imposed pursuant to subsection (f), or any portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person or the person's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(2) A person who is assessed a fine or court costs for a traffic citation may petition the court that assessed the fine or costs at any time to waive payment of the fine or costs, or any portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person or the person's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(f) 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, 2017, through June 30, 2019~~ *July 1, 2019, through June 30, 2025*, the supreme court may impose an additional charge, not to exceed $22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 6. K.S.A. 2020 Supp. 8-240, 8-247, 8-262, 8-1325, 8-2110 and 8-2110b are hereby repealed.

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

Approved April 23, 2021.

Published in the *Kansas Register* May 6, 2021.

CHAPTER 90

HOUSE BILL No. 2218

AN ACT concerning the Kansas state employees health care commission; changing membership thereon; providing responsibility to balance the healthcare needs of state employees with the financial impact on the state; requiring reports to the legislature on current and projected reserve balances in the state healthcare benefits program; amending K.S.A. 75-6501, 75-6502 and 75-6509 and repealing the existing sections.

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

Section 1. K.S.A. 75-6501 is hereby amended to read as follows: 75-6501. (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program. *The state employees health care commission shall balance the healthcare needs of state employees at an affordable cost to the employees with the financial impact on the state.*

(b) (1) Subject to the provisions of paragraph (2), the state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including, but not limited to, qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(2) The state health care benefits program shall provide the benefits and services required by K.S.A. 75-6524, and amendments thereto.

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. Such rules and regulations shall not apply to students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto. In designating persons qualified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Such conditions, restrictions, limitations and exclusions shall include the

conditions contained in K.S.A. 75-6506(d), and amendments thereto. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the commission if such person chooses to participate therein.

(d) (1) Commencing with the 2009 plan year that begins January 1, 2009, if a state employee elects the high deductible health plan and health savings account, the state's employer contribution shall equal the state's contribution to any other health benefit plan offered by the state. The cost savings to the state for the high deductible health plan shall be deposited monthly into the employee's health savings account up to the maximum annual amount allowed pursuant to 26 U.S.C. § 223(d), as amended, for as long as the employee participates in the high deductible plan.

(2) If the employee had not previously participated in the state health benefits plan, the employer shall calculate the average savings to the employer of the high deductible plan compared to the other available plans and contribute that amount monthly to the employee's health savings account up to the maximum annual amount allowed pursuant to 26 U.S.C. § 223(d), as amended.

(3) The employer shall allow additional voluntary contributions by the employee to their health savings account by payroll deduction up to the maximum annual amount allowed pursuant to 26 U.S.C. § 223(d), as amended.

(e) The commission shall have no authority to assess charges for employer contributions under the student health care benefits component of the state health care benefits program for persons who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.

(f) Nothing in this act shall be construed to permit the Kansas state employees health care commission to discontinue the student health care benefits component of the state health care benefits program until the state board of regents has contracts in effect that provide student coverage pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.

(g) (1) On and after July 1, 2018, the commission shall designate claimants, as defined in K.S.A. 2020 Supp. 60-5004, and amendments thereto, as qualified to participate in the state health care benefits program. The commission shall implement this subsection in accordance with applicable federal law, including, but not limited to, the employee

retirement income security act of 1974 and any regulations issued by the United States department of the treasury.

(2) A claimant shall have 31 calendar days from the date of judgment entered pursuant to K.S.A. 2020 Supp. 60-5004, and amendments thereto, to complete or decline enrollment in the state health care benefits program. A claimant shall be qualified to participate in the state health care benefits program for the remainder of the plan year when judgment is entered pursuant to K.S.A. 2020 Supp. 60-5004, and amendments thereto, and for the next ensuing plan year. A claimant shall not be qualified to elect a high-deductible health plan and health savings account under the state health care benefits program.

(3) Costs of premiums under the state health care benefits program for a claimant shall be paid from the tort claims fund established by K.S.A. 75-6117, and amendments thereto, and shall not be charged to the claimant. A claimant shall be responsible to pay any applicable copayments, deductibles and other related costs under the state health care benefits program.

(4) A claimant may elect to include the claimant's dependents under the state health care benefits program. For any covered dependents, the claimant shall be responsible to pay the costs of premiums, copayments, deductibles and other related costs under the state health care benefits program.

(5) The secretary of health and environment or the secretary's designee shall provide assistance to a claimant to obtain and maintain coverage under the state health care benefits program pursuant to this subsection, including: Enrollment; maintenance of related records; and other assistance as may be required or incidental to implement this subsection.

Sec. 2. K.S.A. 75-6502 is hereby amended to read as follows: 75-6502. (a) There is hereby established the Kansas state employees health care commission which is composed of ~~five~~ *seven* members as follows: (1) The commissioner of insurance; (2) the secretary of administration; (3) a current state employee ~~in the classified service under the Kansas civil service act~~ *who is currently enrolled in the state healthcare benefits program group health insurance medical plan*, appointed by the governor; (4) a person who retired from a position in ~~the classified service under the Kansas civil service act~~ *state service and who is currently enrolled in the state healthcare benefits program group health insurance medical plan*, appointed by the governor; ~~and~~ (5) a representative of the general public, appointed by the governor*; (6) a member of the senate ways and means committee, appointed by the president of the senate; and (7) a member of the house of representatives appropriations committee, appointed by the speaker of the house of representatives*. A state officer or employee may not be appointed as the member representative of the general public.

(b) Each member appointed under this section by the governor shall serve at the pleasure of the governor. *The member appointed by the presi-*

dent of the senate shall serve at the pleasure of the president of the senate, and the member appointed by the speaker of the house of representatives shall serve at the pleasure of the speaker of the house of representatives. Not more than ~~three~~ *five* members of the commission shall be members of the same political party.

(c) The chairperson of the commission shall be designated by the governor. The commission shall meet at least once each calendar quarter and at such other times as may be required on call of the chairperson or any three members thereof.

(d) A quorum of the Kansas state employees health care commission shall be ~~three~~ *four*. All actions of the commission shall be taken by a majority of all of the members of the commission.

(e) Members of the Kansas state employees health care commission attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 3. K.S.A. 75-6509 is hereby amended to read as follows: 75-6509. Commencing with the regular session of the legislature in 1985 and with each regular session of the legislature thereafter, the Kansas state employees health care commission shall submit to the president of the senate and to the speaker of the house of representatives, on the day the governor's budget report is submitted to the legislature, recommendations with respect to the state health care benefits program together with estimates of the cost of the program proposed by the commission, including a five-year projection of the cost of the program, and the estimated cost of admitting each entity pursuant to ~~subsection (c) of~~ K.S.A. 75-6506*(c)*, and amendments thereto. *The recommendations shall include a report on the current and projected reserve balance, including as a percentage of total plan expenses. For any reserve balance over 10% of the average plan expenses for the immediately preceding three plan years, the commission shall provide recommendations for reducing reserves by minimizing increases to employee contributions or cost-sharing requirements.* Together with the recommendations submitted, the commission shall include alternatives for cost containment and benefit coverage for qualified persons for both the proposed program and the five-year projected program. The commission shall also submit any recommendations for legislation with respect to the state health care benefits program.

Sec. 4. K.S.A. 75-6501, 75-6502 and 75-6509 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 23, 2021.

CHAPTER 91

HOUSE BILL No. 2064*

AN ACT concerning postsecondary education; creating the Kansas promise scholarship act and the Kansas promise scholarship fund.

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

Section 1. (a) Section 1 et seq., and amendments thereto, shall be known and may be cited as the Kansas promise scholarship act.

(b) As used in the Kansas promise scholarship act:

(1) "Eligible postsecondary educational institution" means:

(A) Any community college or technical college established under the laws of this state;

(B) the Washburn institute of technology; or

(C) any not-for-profit institution of postsecondary education with its main campus or principal place of operation in Kansas that offers a promise eligible program, is operated independently and not controlled or administered by any state agency or subdivision of the state, maintains open enrollment and is accredited by a nationally recognized accrediting agency for higher education in the United States.

(2) "Military servicemember" means the same as defined in K.S.A. 2020 Supp. 48-3406, and amendments thereto.

(3) "Part-time student" means a student who is enrolled for six credit hours or more in a semester and is not enrolled as a full-time student.

(4) "Promise eligible program" means any two-year associate degree program or career and technical education certificate or stand-alone program offered by an eligible postsecondary educational institution that is identified as a "promise eligible program" by the state board of regents pursuant to section 2, and amendments thereto, or designated as a "promise eligible program" by an eligible postsecondary educational institution pursuant to section 3, and amendments thereto.

Sec. 2. (a) There is hereby established the Kansas promise scholarship program. The state board of regents shall administer the program.

(b) On or before March 1, 2022, the state board of regents shall adopt rules and regulations to implement and administer the Kansas promise scholarship program. Such rules and regulations shall establish:

(1) Scholarship application deadlines;

(2) appeal procedures for denial or revocation of a Kansas promise scholarship;

(3) guidelines to ensure as much as is practicable that, if a student who received a Kansas promise scholarship graduates from a promise eligible program and subsequently enrolls in a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or municipal uni-

versity, any courses taken by such student shall be transferred to the state educational institution or municipal university and qualify toward the student's baccalaureate degree;

(4) the terms, conditions and requirements that shall be incorporated into each Kansas promise scholarship agreement;

(5) procedures for requesting and approving medical, military and personal absences from an eligible postsecondary educational institution while receiving a Kansas promise scholarship;

(6) criteria for determining whether a student who received a Kansas promise scholarship fulfilled the residency, employment and repayment requirements included in a Kansas promise scholarship agreement as provided in section 6, and amendments thereto; and

(7) criteria for determining when a student who received a Kansas promise scholarship may be released from the requirements of a Kansas promise scholarship, if there are special circumstances that caused such student to be unable to complete such requirements.

(c) The state board of regents shall:

(1) Identify the promise eligible programs offered by each eligible postsecondary educational institution that are:

(A) In any of the following fields of study:

(i) Information technology and security;

(ii) mental and physical healthcare;

(iii) advanced manufacturing and building trades; or

(iv) early childhood education and development; or

(B) designated by the eligible postsecondary educational institution pursuant to section 3, and amendments thereto;

(2) work with community partners, such as community foundations, school districts, postsecondary educational institutions, Kansas business and industry and Kansas economic development organizations to publicize Kansas promise scholarships, including, but not limited to, publicizing eligible postsecondary educational institutions, approved scholarship-eligible educational programs, application procedures and application deadlines;

(3) disburse funds to each eligible postsecondary educational institution for the purpose of awarding Kansas promise scholarships;

(4) request information from eligible postsecondary educational institutions necessary for the administration of this act;

(5) ensure that any student who received a Kansas promise scholarship fulfills the residency, employment and repayment requirements provided in section 6, and amendments thereto; and

(6) beginning in January 2022, annually evaluate the Kansas promise scholarship program and prepare and submit a report to the senate standing committee on education and the house of representatives standing committee on education.

Sec. 3. (a) Subject to subsection (b), an eligible postsecondary educational institution may designate one additional promise eligible program if the additional program is a two-year associate degree program or a career and technical education certificate or stand-alone program that corresponds to a high wage, high demand or critical need occupation.

(b) To designate an additional promise eligible program, such institution shall have and maintain an existing promise eligible program in any of the following fields of study:

(1) Information technology and security;

(2) mental and physical healthcare;

(3) advanced manufacturing and building trades; or

(4) early childhood education and development.

(c) An eligible postsecondary educational institution that designates an additional promise eligible program pursuant to subsection (a) shall maintain the promise eligible program designation of such program for at least three consecutive years. After maintaining such program for at least three years, the institution may designate a new promise eligible program that corresponds to a high wage, high demand or critical need occupation to replace the existing designated promise eligible program. Any newly designated program shall be subject to the requirements of this section.

Sec. 4. (a) (1) Subject to appropriations, the amount of a Kansas promise scholarship for a student for each semester shall be the aggregate amount of tuition, required fees and the cost of books and required materials for the promise eligible program at the eligible postsecondary educational institution for the academic year in which the student is enrolled and receiving the scholarship minus the aggregate amount of all other aid awarded to such student for such semester. Aid includes any grant, scholarship or financial assistance awards that do not require repayment.

(2) If a student is enrolled in a promise eligible program offered by a four-year eligible postsecondary educational institution, the aggregate amount of tuition, mandatory fees and the cost of books and materials for such program shall be the average cost of tuition, mandatory fees and the cost of books and materials for such promise eligible program when offered by an eligible public postsecondary educational institution that is not a four-year institution.

(b) Except as otherwise provided in this subsection, Kansas promise scholarships shall only be awarded to an eligible student whose family household income equals $100,000 or less for a family of two, $150,000 or less for a family of three and, for household sizes above three, a household income that is equal to or less than the family of three amount plus $4,800 for each additional family member. If scholarship moneys remain in the Kansas promise scholarship program fund during the award year after awarding all other scholarships pursuant to this section, Kansas promise

scholarships may be awarded to eligible students whose family household income exceeds such amounts.

(c) For fiscal years 2022 and 2023, the appropriation made for the Kansas promise scholarship program shall not exceed $10,000,000. For fiscal year 2024 and each fiscal year thereafter, the appropriation shall not exceed 150% of the amount disbursed in promise scholarships for the immediately preceding fiscal year.

Sec. 5. (a) To be eligible for a Kansas promise scholarship, a student shall:

(1) Be a Kansas resident;

(2) (A) have graduated from an accredited Kansas public or private secondary school within the preceding 12 months;

(B) have completed the requirements for graduation at a non-accredited private secondary school as provided in K.S.A. 72-4345, and amendments thereto, within the preceding 12 months;

(C) attended an accredited Kansas public or private secondary school or non-accredited private school as provided in K.S.A. 72-4345, and amendments thereto, and obtained a high school equivalency certificate within the preceding 12 months;

(D) be 21 years of age or older and, upon application for a scholarship, have been a resident of Kansas for three or more consecutive years; or

(E) be a dependent child of a military servicemember permanently stationed in another state and who, within the preceding 12 months, graduated from any out-of-state secondary school or obtained a high school equivalency certificate;

(3) complete the required scholarship application on such forms and in such manner as established by the state board of regents;

(4) enter into a Kansas promise scholarship agreement pursuant to section 6, and amendments thereto;

(5) complete the free application for federal student aid for the academic year in which the student applies to receive a Kansas promise scholarship; and

(6) enroll in an eligible postsecondary educational institution in a promise eligible program.

(b) To continue to receive a Kansas promise scholarship, a student shall:

(1) Maintain satisfactory academic progress toward completion of the promise eligible program; and

(2) satisfy the requirements of a Kansas promise scholarship agreement as provided in section 6, and amendments thereto.

(c) Nothing in this act shall prohibit a student who received postsecondary course credit while enrolled in high school from qualifying for a Kansas promise scholarship.

Sec. 6. (a) As a condition to receiving a Kansas promise scholarship, an eligible student shall enter into a Kansas promise scholarship agreement with the eligible postsecondary educational institution making the scholarship award to such student. Such agreement shall require such student who receives a Kansas promise scholarship to:

(1) Enroll as a full-time or part-time student at the eligible postsecondary educational institution from which the student is receiving a Kansas promise scholarship and engage in and complete the required promise eligible program within 30 months of the date the scholarship was first awarded;

(2) within six months after graduation from the promise eligible program:

(A) Reside in and commence work in the state of Kansas for at least two consecutive years following completion of such program; or

(B) enroll as a full-time or part-time student in any public or private postsecondary educational institution with its primary location in Kansas and upon graduation or failure to re-enroll, reside in and commence work in Kansas for at least two consecutive years following the completion of such program;

(3) maintain records and make reports to the state board of regents on such forms and in such manner as required by the state board of regents to document the satisfaction of the requirements of this act; and

(4) upon failure to satisfy the requirements of a Kansas promise scholarship agreement, repay the amount of the Kansas promise scholarship the student received under the program as provided in subsection (b).

(b) (1) Except as provided in subsection (c), if any student who receives a Kansas promise scholarship fails to satisfy the requirements of a Kansas promise scholarship agreement, such student shall pay an amount equal to the total amount of money received by such student pursuant to such agreement that is financed by the state of Kansas plus accrued interest at a rate equivalent to the interest rate applicable to loans made under the federal PLUS program at the time such person first entered into an agreement. Installment payments of such amounts may be made in accordance with rules and regulations of the state board of regents. Such installment payments shall begin six months after the date of the action or circumstances that cause such student to fail to satisfy the requirements of a Kansas promise scholarship agreement, as determined by the state board of regents upon the circumstances of each individual case. All moneys received pursuant to this subsection 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 promise scholarship program fund.

(2) The state board of regents is authorized to turn any repayment account arising under this act to a designated loan servicer or collection agency, the state not being involved other than to receive payments from the loan servicer or collection agency at the interest rate prescribed under this subsection.

(c) Any requirement of a Kansas promise scholarship agreement entered into pursuant to this section may be postponed for good cause in accordance with rules and regulations of the state board of regents.

(d) A scholarship recipient satisfies the requirements of the Kansas promise scholarship program if such recipient:

(1) Completes the requirements of the scholarship agreement;

(2) commences service as a military servicemember after receiving a Kansas promise scholarship;

(3) fails to satisfy the requirements after making the best possible effort to do so as determined by the state board of regents;

(4) is unable to obtain employment or continue in employment after making the best possible effort to do so; or

(5) is unable to satisfy the requirements due to disability or death of the recipient.

Sec. 7. There is hereby created in the state treasury the Kansas promise scholarship program fund, which shall be administered by the state board of regents. All expenditures from the Kansas promise scholarship program fund shall be for scholarships awarded pursuant to the Kansas promise scholarship program. All expenditures from the Kansas promise scholarship program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer of the state board or the designee of the executive officer. All moneys received by the board for the Kansas promise scholarship program shall be deposited in the state treasury 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 promise scholarship program fund.

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

Approved April 23, 2021.

CHAPTER 92

Senate Substitute for Substitute for HOUSE BILL No. 2196

AN ACT concerning employment security; creating the unemployment compensation modernization and improvement council; providing for an audit to be conducted by the council; providing for development of a new unemployment insurance information technology system; membership of the procurement negotiating committee for such system; claimant tax information; website publication of trust fund data; maximum benefit period; charging of employer accounts for benefits paid; employment security board of review and emergency expansion thereof; employer contribution rate determination and schedules; crediting employer accounts for fraudulent or erroneous payments; services performed by petroleum landmen; lessor employment unit employee leasing restrictions; disclosure of information; shared work compensation program; establishing the my reemployment plan providing job search and job matching assistance to claimants and employers; providing for workforce training program availability for claimants; providing for the transfer of certain federal coronavirus relief funds received by the state to the employment security fund; changing the benefit disqualification period for fraud; making and concerning appropriations for the fiscal years ending June 30, 2021, and June 30, 2022; authorizing certain transfers and imposing certain limitations; establishing a new crime of unemployment insurance fraud with an enhanced penalty; providing for voluntary identity verification by claimants through participating law enforcement agencies; creating the legislative employment security fund; amending K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-705, 44-706, 44-709, 44-710, 44-710a, 44-710b, 44-714, 44-719 and 44-757 and repealing the existing sections.

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

New Section 1. (a) (1) There is hereby created the unemployment compensation modernization and improvement council. The council shall consist of 13 members appointed as follows:

(A) Three members who, on account of their vocation, employment or affiliations, may be classed as representative of employers, one of whom shall be selected by the governor, one by the speaker of the house of representatives and one by the president of the senate;

(B) three members who, on account of their vocation, employment or affiliation, may be classed as representative of employees, one of whom shall be selected by the governor, one by the speaker of the house of representatives and one by the president of the senate;

(C) the chairpersons of the standing committees of the senate and the house of representatives to which legislation pertaining to the employment security law is customarily referred, appointed by the president of the senate and the speaker of the house of representatives, respectively;

(D) two members of the senate, one of whom shall be a member of the majority party appointed by the president of the senate and one of whom shall be a member of the minority party appointed by the minority leader of the senate;

(E) two members of the house of representatives, one of whom shall be a member of the majority party appointed by the speaker of

the house of representatives and one of whom shall be a member of the minority party appointed by the minority leader of the house of representatives; and

(F) the secretary of labor or a designee of the secretary who has administrative responsibilities with respect to the unemployment insurance compensation system of the department of labor.

(2) Legislative members shall serve during the legislative session in which they are appointed to the council and shall remain members of the legislature in order to retain membership on the council. Vacancies of legislative members during a term shall be filled in the same manner as the original appointment only for the unexpired part of the term. The appointing authority for the legislative member may remove the member, reappoint the member or substitute another appointee for the member at any time.

(3) The members of the council shall be appointed and the council shall hold its first meeting within 30 days of the effective date of this act.

(b) All non-legislative members shall serve for three years or until the council is dissolved, whichever is shorter. Vacancies of non legislative members shall be filled in the same manner as the original appointment only for the unexpired part of the term. The appointing authority for the member may remove the member, reappoint the member or substitute another appointee for the member at any time.

(c) The council shall be dissolved and the provisions of this section pertaining to the establishment, function and operation of the council shall no longer be in effect after three years from the date of the council's first meeting.

(d) Each member of the council shall be entitled to receive compensation for the member's services, together with the member's travel and other necessary expenses actually incurred in the performance of the member's official duties, in accordance with policies adopted by the council. Members' compensation and expenses shall be paid from the employment security administration fund or any account of the state general fund of the department of labor, as designated by the secretary.

(e) The chairperson of the house of representatives standing committee on commerce, labor and economic development, or a successor committee to which legislation pertaining to employment security law is customarily referred, shall serve as the chairperson of the council when first organized and for the ensuing two years. The chairperson of the senate standing committee on commerce, or a successor committee to which legislation pertaining to employment security law is customarily referred, shall serve as the chairperson of the council for the next two years, and thereafter the office of chairperson shall continue to alternate between the chambers as provided herein.

(f) The council shall examine and recommend changes to the unemployment compensation system to include current limitations, new features and benefits, system enhancements and dynamic, accurate reporting for the benefit of both employers and individuals. The council shall also examine the process by which an individual files a claim for and receives benefits and any changes made to that process after the effective date of this section. The scope of the council's examinations and recommendations shall include, but not be limited to, the following:

(1) The technological infrastructure used to file and process claims and pay benefits and the experience of individuals and employers participating in the process;

(2) system improvements or upgrades that will maximize responsiveness for individuals and employers;

(3) methods for information and data sharing across agency systems related to unemployment compensation to maximize efficiency; and

(4) system improvements or upgrades relating to system integrity by reporting vulnerabilities and recommended system enhancements to include identity verification and protection, social security administration cross-match, systematic alien verification for entitlement, incarceration cross-matches, interstate connection network, internet protocol address and data mining and analytics to detect and prevent fraud. Such data mining and analytics shall include current and future recommendations by the United States department of labor and the national association of state workforce agencies, including suspicious actor repository, suspicious email domains, foreign IP addresses, multi-state cross-match, identity verification, fraud alert system, and other assets provided by the unemployment insurance integrity center.

(g) (1) The council shall conduct an audit that shall examine the effects on the department of labor and the unemployment insurance system of fraudulent claims and improper payments during the period of March 15, 2020, through March 31, 2022, and the response by the department of labor to such fraudulent claims and improper payments during that period. The council shall select an independent firm to conduct the audit. The auditor shall have access to all confidential documents. The scope of the audit shall include, but not be limited to, the amounts and nature of improper payments and fraudulent claims, fraud processes and methods and the possibility of recovery of any improper payments. The audit shall also include, but not be limited to, an evaluation that provides likelihood of a data breach being a contributing factor to any fraudulent payments, improper network architecture allowing a potential breach to have occurred and a timeline of relevant events. The independent firm shall make a preliminary report to the council by May 1, 2022, and a final report by September 1, 2022, that shall be made publicly available by the

council. The preliminary report should include, but not be limited to, an evaluation of systems with access to the payment and processing of claims, forensic endpoint images related to the claims and the external perimeter housing the claims systems, as well as an evaluation of the department of labor's response to claims. The council's report, and any subsequent report provided, shall also include information on the progress regarding the secretary's implementation of all program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies as described in section 2(e), and amendments thereto. Any confidential information shall be redacted and shall not be made public. The audit shall be paid for by the state, subject to appropriations therefor.

(2) The council may hold an executive session that shall not be public under the Kansas open meetings act for the purpose of hearing and discussing any confidential portions of the audit. The council shall follow the provisions of K.S.A. 75-4319, and amendments thereto, when conducting such an executive session.

(h) The council shall not examine the solvency of the unemployment compensation fund created by K.S.A. 44-710a, and amendments thereto, or changes that would either increase or reduce benefits paid from the fund.

(i) The staff of the legislative research department, the office of revisor of statutes and the division of legislative administrative services shall provide such assistance as may be requested by the chairperson.

(j) (1) The council shall only have access to records of the department of labor that are necessary for the administration and duties of the council. The council shall not have access to any confidential or personal identifying information. The council may request that the secretary of labor, department of labor employee or any private or public employer or employee with information of value to the council appear before the council and testify to matters within the council's purview.

(2) Not later than 14 days after the council's first meeting, the council shall issue an initial report that, at a minimum, describes the state of the process by which an individual files a claim for and receives benefits under the employment security law at the time the report is issued and planned improvements to the process. The council may address other matters within the council's purview in the report.

(3) The secretary of labor shall post all testimony and other relevant materials discussed, presented to or produced for the council on a publicly accessible website maintained by the secretary.

(k) The secretary of labor shall notify the chairperson of the council of any unauthorized third-party access to or acquisition of records maintained by the secretary that are necessary for the administration of the employment security law. The secretary shall provide the notice not more

than five days after the secretary discovers or is notified of the unauthorized access or acquisition.

(l) The secretary of labor shall notify the members of the council of any substantial disruption in the process by which applications for determination of benefit rights and claims for benefits are filed with the secretary. The council shall, in cooperation with the secretary, adopt and periodically review a definition of substantial disruption for purposes of this subsection.

(m) (1) The secretary of labor shall, with the assistance of the council:

(A) Develop a written strategic staffing plan to be implemented whenever there is a substantial increase or a substantial decrease in the number of inquiries or claims for benefits and review the plan in accordance with the provisions of subsection (n);

(B) create, in a single place on the website maintained by the secretary, a list of all points of contact by which an applicant for or a recipient of unemployment compensation benefits or an employer may submit inquiries related to the employment security law; and

(C) adopt rules and regulations creating a uniform process through which an applicant for or a recipient of benefits under the employment security law or an employer may submit a complaint related to the service the applicant, recipient or employer received.

(2) In the written strategic staffing plan required under paragraph (1)(A), the secretary shall include an explanation of whether and in what manner the secretary will utilize:

(A) Department employees who do not ordinarily perform services related to unemployment compensation;

(B) employees employed by other state agencies; and

(C) employees provided by private entities.

(n) For purposes of subsection (m)(1)(A), the secretary of labor shall develop the initial written strategic staffing plan and provide such plan to the council, the president of the senate, the speaker of the house of representatives and the governor. The secretary shall review the plan at least once per year. If, after reviewing the plan, the secretary determines that the plan should be revised, the secretary shall revise the plan. After each review of the plan as provided under this subsection, the secretary shall provide the most recent version of the plan to the council, the president of the senate, the speaker of the house of representatives and the governor. The secretary shall post the most recent version of the plan on a publicly accessible website maintained by the secretary.

(o) The council may suggest rules and regulations for adoption by the secretary as necessary to implement the provisions of this section.

(p) The secretary of labor or the secretary's designee shall provide status reports on or before the 15th day and the last day of each month to

the council. The reports shall include, but not be limited to, the status of the new unemployment information technology system upgrade timeline, progress, budget and the overall project status. At such time that the new system becomes operational, the reports shall include, but not be limited to, system performance and process updates.

(q) This section shall be a part of and supplemental to the employment security law.

New Sec. 2. (a) It is the intent of the legislature that, in order to accomplish the mission of collecting state employment security taxes, processing unemployment insurance benefit claims and paying benefits, the department of labor's information technology system shall be continually developed, customized, enhanced and upgraded. The purpose of this section is to ensure the state's unemployment insurance program is utilizing current technology and features to protect the sensitive data required in the unemployment insurance benefit and tax systems relating to program integrity, system efficiency and customer service experience.

(b) The legislature finds that, as a result of the vulnerabilities exposed in the legacy unemployment insurance system by the COVID-19 pandemic unemployment insurance crisis, a new system shall be fully designed, implemented and administered by the department of labor not later than December 31, 2022. The legislative coordinating council, upon consultation with the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, may extend the deadline to a date certain and may further extend the deadline to another date certain at any time.

(c) The information technology system, technology and platform shall include, but not be limited to, any components as specified and defined by the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, in consultation with the secretary.

(d) The new system shall include, but not be limited to, any features and benefits as specified and defined by the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, in consultation with the secretary.

(e) The secretary shall implement and utilize all program integrity elements, as specified and defined by the unemployment compensation modernization and improvement council established by section 1, and amendments thereto, in consultation with the secretary, including, but not limited to:

(1) Social security administration cross-matching for the purpose of validating social security numbers supplied by a claimant;

(2) checking of new hire records against the national directorate of new hires to verify eligibility;

(3) verification of immigration status or citizenship and confirmation of benefit applicant information through the systematic alien verification for entitlement program;

(4) comparison of applicant information to local, state and federal prison databases through incarceration cross-matches;

(5) detection of duplicate claims by applicants filed in other states or other unemployment insurance programs through utilization of the interstate connection network, interstate benefits cross-match, the state identification inquiry state claims and overpayment file and the interstate benefits 8606 application for overpayment recoveries for Kansas claims filed from a state other than Kansas;

(6) identification of internet protocol addresses linked to multiple claims or to claims filed outside of the United States; and

(7) use of data mining and data analytics to detect and prevent fraud when a claim is filed, and on an ongoing basis throughout the lifecycle of a claim, by using current and future functionalities to include suspicious actor repository, suspicious email domains, foreign internet protocol addresses, multi-state cross-match, identity verification, fraud alert systems and other assets provided by the unemployment insurance integrity center.

(f) If the unemployment compensation modernization and improvement council becomes inactive or is dissolved and the new information technology system modernization project has been completed, the secretary shall implement and utilize all new program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies, including the integrity data hub, within 60 days of the issuance of any such guidance.

(g) The secretary, on a scheduled basis, shall cross check new and active unemployment insurance claims against the cross-check programs described in subsection (e). If the secretary receives information concerning an individual approved for benefits that indicates a change in circumstances that may affect eligibility, the secretary shall review the individual's case and act in accordance with the law.

(h) The department of labor shall have the authority to execute a memorandum of understanding with any department, agency or agency division for information required to be shared between agencies pursuant to the provisions of this section.

(i) The secretary of labor shall adopt rules and regulations necessary for the purposes of carrying out this section. Such rules and regulations shall be adopted within 12 months of the effective date of this act.

(j) The secretary of labor shall provide an annual status update and progress report regarding the requirements of this section to the unemployment compensation modernization and improvement council and the legislative coordinating council.

(k) This section shall be a part of and supplemental to the employment security law.

New Sec. 3. (a) The secretary of labor shall include information on an unemployment insurance benefit claimant's initial notice of determination that informs the claimant of the federal and state tax consequences of any unemployment compensation benefits that the claimant may receive. This information shall include an explanation regarding the department of labor income tax withholding agreement form designated as K-BEN 233 or a successor form, tax withholding elections and the tax withholding process and estimated weekly and maximum claim year federal and state tax withholding amounts.

(b) This section shall be a part of and supplemental to the employment security law.

New Sec. 4. (a) The secretary of labor shall post trust fund computations and data as required by subsection (b) on a publicly accessible website maintained by the secretary as follows:

(1) The secretary shall post and maintain certified computations and data for each of the most recent 20 fiscal years within 120 days of the effective date of this act; and

(2) for the fiscal year beginning on July 1, 2021, and each fiscal year thereafter, the secretary shall certify and post the trust fund computations and data for the fiscal year to the website on or before December 1 following the end of such fiscal year.

(b) The computations and data to be posted shall include:

(1) Distributions of taxable wages by experience factor for each state fiscal year including the following information:

(A) The rate group;

(B) the reserve ratio lower limit;

(C) the number of accounts;

(D) the taxable wages by fiscal year;

(E) a summary of active positive eligible accounts with the number of accounts and fiscal year taxable wages;

(F) a summary of active ineligible accounts with the number of accounts and fiscal year taxable wages;

(G) a summary of active negative accounts with the number of accounts and fiscal year taxable wages; and

(H) a summary of terminated and inactive accounts with the number of accounts and fiscal year taxable wages; and

(2) an average high cost benefit rate summary, including:

(A) The average high cost benefit rate currently in effect; and

(B) the benefit cost rate for the fiscal years used to calculate the average high benefit cost rate.

(c) This section shall be a part of and supplemental to the employment security law.

New Sec. 5. (a) (1) The secretary of labor and the secretary of commerce shall jointly establish and implement the my reemployment plan as provided in this section. For purposes of this section, "my reemployment plan" means a program jointly established and implemented by the Kansas department of labor and the Kansas department of commerce that provides enhanced reemployment services, including workforce services provided by the department of commerce, to Kansans receiving unemployment insurance benefits. The program shall be available to all claimants except claimants in the shared work program or trade readjustment assistance program or claimants on temporary layoff with a return-to-work date. The program shall be implemented on or before June 1, 2021.

(2) The secretary of labor shall provide the secretary of commerce with the names and contact information of claimants that have claimed three continuous weeks of benefits. The secretary of commerce shall request a resume or work history, a skills list and a job search plan from the claimants and shall offer and provide, when requested, assistance to the claimants in developing the documents or plan through collaboration by the secretary with the Kansas works workforce system. The claimant shall have seven days to respond to the secretary of commerce. The secretary of commerce shall report any failure to respond by the claimant to the secretary of labor.

(3) The secretary of labor shall share labor market information and current available job positions with the secretary of commerce. The secretary of labor may collaborate with Kansasworks or other state or federal agencies with job availability information in obtaining or sharing such information.

(4) The secretary of commerce shall match open job positions with claimants based on skills, work history and job location that is a reasonable commute from the claimant's residence and communicate the match information to the claimant and to the employer. The secretary of labor and the secretary of commerce shall consider whether the claimant or a Kansas employer would benefit from the claimant's participation in a work skills training or retraining program as provided by subsection (b) and, if so, provide such information to the employer, if applicable, and the claimant. Claimants who fail to respond within two weeks after contact by Kansasworks or the department of commerce shall be reported by the secretary of commerce to the secretary of labor.

(5) The secretary of commerce shall facilitate and oversee the claimant and employer interview process. The secretary of commerce and the secretary of labor shall monitor the result of job matches and share information regarding any claimant who did not attend an interview or did not accept a position that was a reasonable match for the claimant's work history and skills and was within a reasonable commute from the claim-

ant's residence. The secretary of commerce shall contact the claimant and report the contact to the secretary of labor. The secretary of labor shall consider whether the claimant has failed to meet work search requirements and if the claimant should continue to receive benefits.

(b) The secretary of commerce shall develop and implement a work skills training or retraining program for claimants in collaboration with the Kansasworks workforce system, the secretary of labor, employers and other state or federal agencies or organizations. The secretary of commerce shall seek to obtain or utilize any available federal funds for the program, and to the extent feasible, may make current work skills training and retraining programs available to claimants. The secretary of labor may allow claimants to participate in such a program offered by the secretary of commerce or by another state or federal agency in lieu of requiring the claimant to meet job search requirements and the requirements of the my reemployment plan until the number of allowed benefit weeks has expired. A claimant shall participate in such a program for not less than 25 hours per week. The secretary of commerce shall monitor claimants who are participating in the program to ensure attendance and progress.

(c) Claimants who participate in the my reemployment plan or the work skills training or retraining program shall meet attendance or progress requirements established by the secretary of commerce to continue eligibility for unemployment insurance benefits. Non-compliant claimants shall be reported by the secretary of commerce to the secretary of labor. The secretary of labor shall disqualify such claimants from further benefits within five business days of receiving the report, unless or until the claimant demonstrates compliance to the secretary of commerce, and shall communicate the disqualification and the reason for the disqualification to the claimant. The secretary of commerce shall report to the secretary of labor when the claimant has reestablished compliance. The secretary of labor may continue benefits or reinstate a claimant's eligibility for benefits upon a showing of good cause by the claimant for the failure to meet attendance or progress requirements or my reemployment plan participation requirements.

(d) The secretary of labor and the secretary of commerce shall provide an annual status update and progress report for the my reemployment plan to the standing committee on commerce, labor and economic development of the house of representatives and the standing committee on commerce of the senate during the first month of the 2022 regular legislative session and the first month of each regular legislative session thereafter.

(e) This section shall be a part of and supplemental to the employment security law.

New Sec. 6. Notwithstanding the provisions of chapter 1 of the 2020 Special Session Laws of Kansas, any other statute, any appropriation act or any other provision of this act: (a) For the fiscal years ending June 30, 2021, and June 30, 2022, on or before July 15, 2021, the director of the budget shall determine the amount of moneys received by the state that are identified as moneys from the federal government for aid to the state of Kansas for coronavirus relief as appropriated in the following acts that are eligible to be used for employment security, may be expended at the discretion of the state, in compliance with the office of management and budget's uniform administrative requirements, cost principles and audit requirements for federal awards, and are unencumbered: (1) The federal CARES act, public law 116-136, the federal coronavirus preparedness and response supplemental appropriation act, 2020, public law 116-123, the federal families first coronavirus response act, public law 116-127, and the federal paycheck protection program and health care enhancement act, public law 116-139; (2) the federal consolidated appropriations act, 2021, public law 116-260; (3) the American rescue plan act of 2021, public law 117-2; and (4) any other federal law that appropriates moneys to the state for aid for coronavirus relief. If the state receives any such moneys from the federal government for aid to the state of Kansas for coronavirus relief after July 15, 2021, the director of the budget shall also identify such moneys for the purposes of fulfilling the transfers required by this section.

(b) Of such identified moneys, the director of the budget shall determine in the aggregate an amount equal to $250,000,000 available in special revenue funds. If such identified moneys in the aggregate are less than $250,000,000, the director of the budget shall determine the maximum amount available. The director of the budget shall certify the amount so determined from each fund to the director of accounts and reports and, at the same time as such certification is transmitted to the director of accounts and reports, shall transmit a copy of such certification to the director of legislative research. Upon receipt of each such certification, or as soon thereafter as moneys are available, the director of accounts and reports shall immediately transfer an aggregate amount equal to such certification and in the aggregate, an amount equal to $250,000,000 if available from such funds to the employment security fund (296-00-7056-7200) of the department of labor for the purpose of funding the employment security fund.

(c) Of such identified moneys, the director of the budget shall further determine in the aggregate an additional amount equal to $250,000,000 available in special revenue funds. If such identified moneys in the aggregate are less than $250,000,000, the director of the budget shall determine the maximum additional amount available. The director of the budget shall certify the amount so determined from each fund to the di-

rector of accounts and reports and, at the same time as such certification is transmitted to the director of accounts and reports, shall transmit a copy of such certification to the director of legislative research. Upon receipt of each such certification, or as soon thereafter as moneys are available, the director of accounts and reports shall immediately transfer an aggregate amount equal to such certification and in the aggregate, an amount equal to $250,000,000 if available from such funds to the legislature employment security fund of the legislative coordinating council.

(d) Upon a determination of the dollar amount of improper payments by the audit of the department of labor in accordance with section 1(g), and amendments thereto, the unemployment compensation modernization and improvement council shall report such dollar amount immediately in writing to the division of the budget. Upon receipt of such report, the director of the budget shall certify the dollar amount identified by the audit and transmit a copy of such report and certification to members of the legislative coordinating council and the director of legislative research.

(e) If the amount of improper payments determined by such audit or the amount of any improper payments made during April 1, 2022, through December 31, 2022, as determined by the secretary following the review of the information as provided in K.S.A. 44-710b(e), and amendments thereto, or both such amounts added together, exceed the amounts transferred pursuant to subsections (b) and (c), the secretary shall certify such amount to the director of the budget. The director of the budget shall certify the amount of additional moneys identified under subsection (a) determined to be available from each fund to the director of accounts and reports and, at the same time as such certification is transmitted to the director of accounts and reports, shall transmit a copy of such certification to members of the legislative coordinating council and the director of legislative research. Upon receipt of each such certification, or as soon thereafter as moneys are available, the director of accounts and reports shall immediately transfer an aggregate amount equal to such certification if available from such funds to the legislature employment security fund of the legislative coordinating council.

(f) Upon receipt of any reports or certifications, the legislative coordinating council shall notify the legislative budget committee and forward a copy of such information to the committee. The legislative budget committee shall meet and review such information and shall report such committee's recommendation to the legislative coordinating council. After receiving recommendations from the legislative budget committee, the legislative coordinating council may authorize the transfer moneys in an amount not to exceed the amounts certified of improper payments from the legislature employment security fund to the employment secu-

rity fund of the department of labor. Such transfers may be approved by the members of the legislative coordinating council, as provided in K.S.A. 46-1202, and amendments thereto, acting on this matter, which is hereby characterized as a matter of legislative delegation, except that such transfers may also be approved while the legislature is in session.

(g) There is hereby established in the state treasury the legislature employment security fund which shall be administered by the legislative coordinating council. All expenditures from the legislature employment security fund shall be for the purposes of funding the employment security fund for improper payments. All expenditures from the legislature employment security fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the legislative coordinating council or the designee of the chairperson.

(h) As used in this act, "improper payment amounts" or "improper payments" means any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative or other legally applicable requirements and includes any payment to an ineligible recipient.

New Sec. 7. (a) On or before January 31 of each calendar year, the secretary of labor shall transmit to the standing committee on commerce of the senate and the standing committee on commerce, labor and economic development of the house of representatives or any successor committee, a report, based on information received or developed by the department of labor, concerning the employment security trust fund, unemployment benefit claims and employer contributions to the employment security trust fund. Such report shall contain the following information:

(1) The amount of claims for the 12-month period ending on June 30 of the previous calendar year;

(2) the actual and projected amount of claims for the 12-month period beginning on July 1 of the previous calendar year;

(3) the amount of employer contributions for the 12-month period ending on June 30 of the previous calendar year and current employer contribution rates;

(4) the actual and projected amount of employer contributions for the 12-month period beginning on July 1 of the previous calendar year and ending on June 30 of the current calendar year and projected employer contribution rates for the next succeeding calendar year;

(5) the balance of the employment security trust fund on June 30 of the previous calendar year and the current balance of the fund; and

(6) the projected balance of the employment security trust fund on June 30 of the current calendar year and on January 1 of the next succeeding calendar year.

(b) In arriving at the amount of employer contributions to the employment security trust fund pursuant to subsection (a)(3), and the projected amount of employer contributions pursuant to subsection (a)(4), contributions paid or projected to be paid on or before July 31 following the respective 12-month period ending date of June 30 shall be considered.

(c) The secretary may include in the report any recommendations of the secretary regarding changes in contribution rates or the contribution rate tables. If the secretary makes recommendations, the secretary shall include projections of changes to employer contribution rates and to the balance of the employment security trust fund if the secretary's recommendations were adopted by the legislature.

(d) The provisions of this section shall expire on February 1, 2024.

(e) This section shall be a part of and supplemental to the employment security law.

New Sec. 8. During the fiscal years ending June 30, 2021, and June 30, 2022, on the effective date of this act, no state agency named in this or other appropriation act of the 2021 regular session of the legislature shall expend any moneys appropriated from the state general fund or from any special revenue fund or funds for fiscal years 2021 and 2022 as authorized by chapter 5 of the 2020 Session Laws of Kansas or any appropriation act of the 2021 regular session of the legislature for the purposes of entering into a contract or agreement with any party to make any changes, improvements or upgrades to the technology infrastructure for claims, benefits and system integrity or to the methods for information and data sharing concerning Kansas unemployment benefits unless and until: (a) The unemployment compensation modernization and improvement council, created by section 1, and amendments thereto, has reviewed the information technology system, technology and platform specifications pursuant to the provisions of section 2, and amendments thereto, and made a recommendation to the legislative coordinating council; and (b) the legislative coordinating council has reviewed any such specifications and any such recommendations. Such legislative coordinating council review shall take place within 60 days of the last date of accepting bids on the modernization project. After the requesting state agency receives a report from the legislative coordinating council regarding such council's review, such state agency is authorized to expend all approved moneys lawfully credited to and available in such fund or funds during the fiscal years ending June 30, 2021, and June 30, 2022.

New Sec. 9. Notwithstanding the provisions of K.S.A. 75-37,102(b), and amendments thereto, for the purposes of selecting a vendor to perform the unemployment insurance modernization project authorized by section 2, and amendments thereto, the procurement negotiating committee shall be composed of: (a) The director of purchases, or a person

designated by the director; (b) the chairperson of the joint committee on information technology pursuant to the provisions of K.S.A. 46-2101, and amendments thereto; and (c) the secretary of administration, or a person designated by the secretary or, if a procurement involves information technology or services, the executive chief information technology officer or a person designated by the executive chief information technology officer.

New Sec. 10. (a) The secretary of labor shall develop a form for use by claimants to establish their identity before a law enforcement officer of a Kansas law enforcement agency for the purpose of facilitating the receipt of unemployment insurance benefits. The form may be in electronic or paper format and may be transmitted or processed in electronic format if safeguards are made to protect any confidential information of the claimant. Use of the form by a claimant shall not be a requirement to receive unemployment benefits. The form shall be distributed to participating law enforcement agencies upon request and shall be provided to claimants at the time a claim for benefits is submitted. The form shall also be made readily available on the department of labor's website. The form shall be no more than one page in length, include space for the claimant's name, address, phone number if any, email address if any, date of birth and social security number and include instructions for the use of the form for the claimant and the law enforcement agency. The form shall specify permitted identity verification documentation that may be submitted to the law enforcement officer by the claimant to establish the claimant's identity. The permitted forms of identity verification documentation shall be documents to establish identity or documents to establish both identity and employment authorization acceptable for federal form I-9, employment eligibility verification, pursuant to 8 C.F.R. 274a.2 as in effect on the effective date of this act. The form shall be developed and made available within seven days of the effective date of this act. Law enforcement agencies shall not be required to participate in the provisions of this section.

(b) Upon receipt of the form, a claimant may present the form to a participating law enforcement agency with jurisdiction over the location of the claimant's residence or last known place of employment in Kansas and submit documentation as required by the form for verification by the law enforcement agency. The claimant may present the form to a participating law enforcement agency that does not have jurisdiction over the location of the claimant's residence or last known place of employment if no law enforcement agency with such jurisdiction has agreed to participate and the secretary has approved such submission. If a law enforcement officer of the law enforcement agency examines and finds the documentation submitted by the claimant valid and sufficient to establish

the claimant's identity, the law enforcement officer shall complete or verify the form and the law enforcement agency shall submit the form to the department of labor as provided by the instructions.

(c) The secretary shall presume a claimant's identity has been confirmed for purposes of the employment security law upon submission of a properly completed form to the secretary by the law enforcement agency on behalf of the claimant. The presumption may be overcome by direct and credible information to the contrary.

(d) The law enforcement officer, law enforcement agency, the state or any political subdivision of the state that employs a law enforcement officer providing identity verification as provided by this section for the department of labor, shall have immunity from any civil or criminal liability for such verification action if the law enforcement officer acts in good faith and exercises due care. Participation and verification of a claimant's identity as provided by this section by a law enforcement agency or law enforcement officer shall constitute a discretionary function or duty for purposes of the Kansas tort claims act.

(e) This section shall be a part of and supplemental to the employment security law.

Sec. 11. K.S.A. 2020 Supp. 44-703 is hereby amended to read as follows: 44-703. As used in this act, unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages paid or payable by an employer during the calendar year.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three calendar years immediately preceding the computation date as hereinafter defined if the employer has been continuously subject to contributions during those three calendar years and has paid some wages for employment during each of such years. In determining contribution rates for the calendar year, if an employer has not been continuously subject to contribution for the three calendar years immediately preceding the computation date but has paid wages subject to contributions during only the two calendar years immediately preceding the computation date, such employer's "average annual payroll" shall be the average of the payrolls for those two calendar years.

(3) "Total wages" means the total amount of wages paid or payable by an employer during the calendar year, including that part of remuneration in excess of the limitation prescribed as provided in subsection (o)(1) ~~of this section~~.

(b) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that the base period in respect to combined wage claims means the base period as defined in the law of the paying state.

(1) If an individual lacks sufficient base period wages in order to establish a benefit year in the manner set forth above and satisfies the requirements of ~~subsection (g) of~~ K.S.A. 44-705*(g)* and ~~subsection (hh) of~~ K.S.A. 44-703*(hh)*, and amendments thereto, the claimant shall have an alternative base period substituted for the current base period so as not to prevent establishment of a valid claim. For the purposes of this subsection, "alternative base period" means the last four completed quarters immediately preceding the date the qualifying injury occurred. In the event the wages in the alternative base period have been used on a prior claim, then they shall be excluded from the new alternative base period.

(2) For the purposes of this chapter, the term "base period" includes the alternative base period.

(c) (1) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to such individual's unemployment.

(2) "Regular benefits" means benefits payable to an individual under this act or under any other state law, including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85, other than extended benefits.

(d) "Benefit year" with respect to any individual, means the period beginning with the first day of the first week for which such individual files a valid claim for benefits, and such benefit year shall continue for one full year. In the case of a combined wage claim, the benefit year shall be the benefit year of the paying state. Following the termination of a benefit year, a subsequent benefit year shall commence on the first day of the first week with respect to which an individual next files a claim for benefits. When such filing occurs with respect to a week ~~which~~ *that* overlaps the preceding benefit year, the subsequent benefit year shall commence on the first day immediately following the expiration date of the preceding benefit year. Any claim for benefits made in accordance with ~~subsection (a) of~~ K.S.A. 44-709*(a)*, and amendments thereto, shall be deemed to be a "valid claim" for the purposes of this subsection if the individual has been paid wages for insured work as required under ~~subsection (e) of~~ K.S.A. 44-705*(e)*, and amendments thereto. Whenever a week of unemployment overlaps two benefit years, such week shall, for the purpose of granting waiting-period credit or benefit payment with respect thereto, be deemed to be a week of unemployment within that benefit year in which the greater part of such week occurs.

(e) "Commissioner" or "secretary" means the secretary of labor.

(f) (1) "Contributions" means the money payments to the state employment security fund ~~which~~ *that* are required to be made by employers on account of employment under K.S.A. 44-710, and amendments thereto, and voluntary payments made by employers pursuant to such statute.

(2) "Payments in lieu of contributions" means the money payments to the state employment security fund from employers ~~which~~ *that* are required to make or ~~which~~ *that* elect to make such payments under ~~subsection (e) of~~ K.S.A. 44-710*(e)*, and amendments thereto.

(g) "Employing unit" means any individual or type of organization, including any partnership, association, limited liability company, agency or department of the state of Kansas and political subdivisions thereof, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign including nonprofit corporations, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representatives of a deceased person, ~~which~~ *that* has in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit ~~which~~ *that* maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the employment.

(h) "Employer" means:

(1) (A) Any employing unit for which agricultural labor as defined in subsection (w) ~~of this section~~ is performed and ~~which~~ during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of $20,000 or more to individuals employed in agricultural labor or for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

(B) For the purpose of this subsection (h)(1), any individual who is a member of a crew furnished by a crew leader to perform ~~service~~ *services* in agricultural labor for any other person shall be treated as an employee of such crew leader if:

(i) Such crew leader holds a valid certificate of registration under the federal migrant and seasonal agricultural workers protection act or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment or any other mechanized equipment, ~~which~~ *that* is provided by such crew leader; and

(ii) such individual is not in the employment of such other person within the meaning of subsection (i) ~~of this section~~.

(C) For the purpose of this subsection (h)(1), in the case of any individual who is furnished by a crew leader to perform ~~service~~ *services* in

agricultural labor for any other person and who is not treated as an employee of such crew leader:

(i) Such other person and not the crew leader shall be treated as the employer of such individual; and

(ii) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on the crew leader's own behalf or on behalf of such other person, for the ~~service~~ *services* in agricultural labor performed for such other person.

(D) For the purposes of this subsection (h)(1) "crew leader" means an individual who:

(i) Furnishes individuals to perform ~~service~~ *services* in agricultural labor for any other person;

(ii) pays, either on such individual's own behalf or on behalf of such other person, the individuals so furnished by such individual for the ~~service~~ *services* in agricultural labor performed by them; and

(iii) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.

(2) (A) Any employing unit ~~which~~ *that* for calendar year 2007 and each calendar year thereafter: (i) In any calendar quarter in either the current or preceding calendar year paid for ~~service~~ *services* in employment wages of $1,500 or more; (ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or preceding calendar year, had in employment at least one individual, whether or not the same individual was in employment in each such day; or (iii) elects to have an unemployment tax account established at the time of initial registration in accordance with ~~subsection (c) of~~ K.S.A. 44-711*(c)*, and amendments thereto.

(B) Employment of individuals to perform domestic service or agricultural labor and wages paid for such service or labor shall not be considered in determining whether an employing unit meets the criteria of this subsection (h)(2).

(3) Any employing unit for which service is employment as defined in subsection (i)(3)(E) ~~of this section~~.

(4) (A) Any employing unit, whether or not it is an employing unit under subsection (g) ~~of this section, which~~ *that* acquires or in any manner succeeds to: (i) Substantially all of the employing enterprises, organization, trade or business; or (ii) substantially all the assets, of another employing unit ~~which~~ *that* at the time of such acquisition was an employer subject to this act;

(B) any employing unit ~~which~~ *that* is controlled substantially, either directly or indirectly by legally enforceable means or otherwise, by the

same interest or interests, whether or not such interest or interests are an employing unit under subsection (g) ~~of this section, which~~ acquires or in any manner succeeds to a portion of an employer's annual payroll, ~~which~~ is less than 100% of such employer's annual payroll, and ~~which~~ intends to continue the acquired portion as a going business.

(5) Any employing unit ~~which~~ *that* paid cash remuneration of $1,000 or more in any calendar quarter in the current or preceding calendar year to individuals employed in domestic service as defined in subsection (aa) ~~of this section~~.

(6) Any employing unit ~~which~~ *that* having become an employer under this subsection (h) has not, under ~~subsection (b) of~~ K.S.A. 44-711*(b)*, and amendments thereto, ceased to be an employer subject to this act.

(7) Any employing unit ~~which~~ *that* has elected to become fully subject to this act in accordance with ~~subsection (c) of~~ K.S.A. 44-711*(c)*, and amendments thereto.

(8) Any employing unit not an employer by reason of any other paragraph of this subsection (h), for which within either the current or preceding calendar year services in employment are or were performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; or ~~which~~ *that*, as a condition for approval of this act for full tax credit against the tax imposed by the federal unemployment tax act, is required, pursuant to such act, to be an "employer" under this act.

(9) Any employing unit described in section 501(c)(3) of the federal internal revenue code of 1986 ~~which~~ *that* is exempt from income tax under section 501(a) of the code that had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(i) "Employment" means:

(1) Subject to the other provisions of this subsection, service, including ~~service~~ *services* in interstate commerce, performed by:

(A) Any active officer of a corporation; or

(B) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee subject to the provisions of subsection (i)(3)(D); or

(C) any individual other than an individual who is an employee under subsection (i)(1)(A) or subsection (i)(1)(B) above who performs services for remuneration for any person:

(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, bev-

erages ~~(~~, other than milk~~)~~, or laundry or dry-cleaning services, for such individual's principal; or

(ii) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, a principal ~~(~~, except for side-line sales activities on behalf of some other person~~)~~, of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

For purposes of subsection (i)(1)(C), the term "employment" ~~shall include~~ *includes* services described in paragraphs (i) and (ii) above only if:

(a) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(b) the individual does not have a substantial investment in facilities used in connection with the performance of the services ~~(~~, other than in facilities for transportation~~)~~; and

(c) the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(2) The term "employment" ~~shall include~~ *includes* an individual's entire service within the United States, even though performed entirely outside this state if:

(A) The service is not localized in any state;

(B) the individual is one of a class of employees who are required to travel outside this state in performance of their duties; and

(C) the individual's base of operations is in this state, or if there is no base of operations, then the place ~~from which~~ *where* service is directed or controlled is in this state.

(3) The term "employment" ~~shall~~ also ~~include~~ *includes*:

(A) Services performed within this state but not covered by the provisions of subsection (i)(1) or subsection (i)(2) shall be deemed to be employment subject to this act if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(B) Services performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act only if the individual performing such services is a resident of this state and the secretary approved the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(C) Services covered by an arrangement pursuant to ~~subsection (l) of~~ K.S.A. 44-714*(j)*, and amendments thereto, between the secretary and the

agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state, shall be deemed to be employment if the secretary has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(D) Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this act if the business for which activities of the individual are performed retains not only the right to control the end result of the activities performed, but the manner and means by which the end result is accomplished.

(E) ~~Service~~*Services* performed by an individual in the employ of this state or any instrumentality thereof, any political subdivision of this state or any instrumentality thereof, or in the employ of an Indian tribe, as defined pursuant to section 3306(u) of the federal unemployment tax act, any instrumentality of more than one of the foregoing or any instrumentality ~~which~~ *that* is jointly owned by this state or a political subdivision thereof or Indian tribes and one or more other states or political subdivisions of this or other states, provided that such service is excluded from "employment" as defined in the federal unemployment tax act by reason of section 3306(c)(7) of that act and is not excluded from "employment" under subsection (i)(4)(A) of this section. For purposes of this section, the exclusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall also be applicable to services performed in the employ of an Indian tribe.

(F) ~~Service~~*Services* performed by an individual in the employ of a religious, charitable, educational or other organization ~~which~~ *that* is excluded from the term "employment" as defined in the federal unemployment tax act solely by reason of section 3306(c)(8) of that act, and is not excluded from employment under ~~paragraphs (I) through (M) of~~ subsection (i)(4)*(I) through (M)*.

(G) The term "employment" ~~shall include~~ *includes* the ~~service~~ *services* of an individual who is a citizen of the United States, performed outside the United States except in Canada, in the employ of an American employer ~~(~~, other than service ~~which~~ *that* is deemed "employment" under the provisions of subsection (i)(2) or subsection (i)(3) or the parallel provisions of another state's law~~)~~, if:

(i) The employer's principal place of business in the United States is located in this state; or

(ii) the employer has no place of business in the United States, but:

(a) The employer is an individual who is a resident of this state;

(b) the employer is a corporation which is organized under the laws of this state; or

(c) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(iii) none of the criteria of ~~paragraphs (i) and (ii) above of this subsection~~ (i)(3)(G)*(i) and (ii)* are met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

(H) An "American employer," for purposes of subsection (i)(3)(G), means a person who is:

(i) An individual who is a resident of the United States;

(ii) a partnership if $^{2}/_{3}$ or more of the partners are residents of the United States;

(iii) a trust, if all of the trustees are residents of the United States; or

(iv) a corporation organized under the laws of the United States or of any state.

(I) Notwithstanding subsection (i)(2)~~ of this section~~, all ~~service~~ *services* performed by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office, from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state.

(J) Notwithstanding any other provisions of this subsection (i),~~ service~~ *services* with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or ~~which~~ *that* as a condition for full tax credit against the tax imposed by the federal unemployment tax act is required to be covered under this act.

(K) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of $1,000 or more in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service.

(4) The term "employment"~~ shall~~ *does* not include: (A)~~ Service~~ *Services* performed in the employ of an employer specified in subsection (h)(3)~~ of this section~~ if such service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) as a member of a legislative body, or a member of the judiciary, of a state, political subdivision or of an Indian tribe;

(iii) as a member of the state national guard or air national guard;

(iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) in a position ~~which~~ *that*, under or pursuant to the laws of this state or tribal law, is designated as a major nontenured policymaking or advisory position or as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week;

(B) ~~service~~*services* with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(C) ~~service~~*services* performed by an individual in the employ of such individual's son, daughter or spouse, and ~~service~~*services* performed by a child under the age of 21 years in the employ of such individual's father or mother;

(D) ~~service~~*services* performed in the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this act, except that to the extent that the congress of the United States shall permit states to require any instrumentality of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this state shall not be certified for any year by the federal security agency under section 3304(c) of the federal internal revenue code of 1986, the payments required of such instrumentalities with respect to such year shall be refunded by the secretary from the fund in the same manner and within the same period as is provided in ~~subsection (f) of~~ K.S.A. 44-717*(h)*, and amendments thereto, with respect to contributions erroneously collected;

(E) ~~service~~*services* covered by an arrangement between the secretary and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within the jurisdiction of such other state or federal agency;

(F) ~~service~~*services* performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(G) ~~service~~*services* performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

(H) ~~service~~*services* performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal internal revenue code of 1986~~(~~, other than an organization described in section 401(a) or under section 521 of such code~~)~~, if the remuneration for such service is less than $50. In construing the application of the term "employment," if services performed during ½ or more of any pay period by an individual for the person employing such individual constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than ½ of any such pay period by an individual for the person employing such individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection (i)(4)(H) the term "pay period" means a period~~(~~, of not more than 31 consecutive days~~)~~, for which a payment of remuneration is ordinarily made to the individual by the person employing such individual. This subsection (i)(4)(H) shall not be applicable with respect to services with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(I) services performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(J) ~~service~~*services* performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of such individual's ministry or by a member of a religious order in the exercise of duties required by such order;

(K) ~~service~~*services* performed in a facility conducted for the purpose of carrying out a program of:

(i) Rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury; or

(ii) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(L) ~~service~~*services* performed as part of an employment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof or of an Indian tribe, by an individual receiving such work relief or work training;

(M) ~~service~~*services* performed by an inmate of a custodial or correctional institution;

(N) ~~service~~*services* performed, in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university;

(O) ~~service~~*services* performed by an individual who is enrolled at a nonprofit or public educational institution ~~which~~ *that* normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, ~~which~~ *that* combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection (i)(4)(O) shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(P) ~~service~~*services* performed in the employ of a hospital licensed, certified or approved by the secretary of health and environment, if such service is performed by a patient of the hospital;

(Q) services performed as a qualified real estate agent. As used in this subsection (i)(4)(Q) the term "qualified real estate agent" means any individual who is licensed by the Kansas real estate commission as a salesperson under the real estate brokers' and salespersons' license act and for whom:

(i) Substantially all of the remuneration, whether or not paid in cash, for the services performed by such individual as a real estate salesperson is directly related to sales or other output, including the performance of services, rather than to the number of hours worked; and

(ii) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for state tax purposes;

(R) services performed for an employer by an extra in connection with any phase of motion picture or television production or television commercials for less than 14 days during any calendar year. As used in this subsection, the term "extra" means an individual who pantomimes in the background, adds atmosphere to the set and performs such actions without speaking and "employer" shall not include any employer ~~which~~ *that* is a governmental entity or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 ~~which~~ *that* is exempt from income taxation under section 501(a) of the code;

(S) services performed by an oil and gas contract pumper. As used in this subsection (i)(4)(S), "oil and gas contract pumper" means a person performing pumping and other services on one or more oil or gas leases, or on both oil and gas leases, relating to the operation and maintenance

of such oil and gas leases, on a contractual basis for the operators of such oil and gas leases and "services" shall not include services performed for a governmental entity or any organization described in section 501(c)(3) of the federal internal revenue code of 1986 ~~which~~ *that* is exempt from income taxation under section 501(a) of the code;

(T) service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $200 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if:

(i) On each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or

(ii) such individual was regularly employed, as determined under subparagraph (i), by such employer in the performance of such service during the preceding calendar quarter.

Such excluded service shall not include any services performed for an employer ~~which~~ *that* is a governmental entity or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 ~~which~~ *that* is exempt from income taxation under section 501(a) of the code;

(U) service which is performed by any person who is a member of a limited liability company and ~~which~~ *that* is performed as a member or manager of that limited liability company; and

(V) services performed as a qualified direct seller. The term "direct seller" means any person if:

(i) Such person:

(a) Is engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise rather than in a permanent retail establishment; or

(b) is engaged in the trade or business of selling or soliciting the sale of consumer products in the home or otherwise than in a permanent retail establishment;

(ii) substantially all the remuneration whether or not paid in cash for the performance of the services described in subparagraph (i) is directly related to sales or other output including the performance of services rather than to the number of hours worked;

(iii) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee for federal and state tax purposes;

(iv) for purposes of this act, a sale or a sale resulting exclusively from a solicitation made by telephone, mail, or other telecommunications method, or other nonpersonal method does not satisfy the requirements of this subsection;

(W) ~~service~~*services* performed as an election official or election worker, if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000;

(X) ~~service~~*services* performed by agricultural workers who are aliens admitted to the United States to perform labor pursuant to section 1101 (a)(15)(H)(ii)(a) of the immigration and nationality act;~~ and~~

(Y) ~~service~~*services* performed by an owner-operator of a motor vehicle that is leased or contracted to a licensed motor carrier with the services of a driver and is not treated under the terms of the lease agreement or contract with the licensed motor carrier as an employee for purposes of the federal insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26 U.S.C. § 3301 et seq., and the federal statutes prescribing income tax withholding at the source, 26 U.S.C. § 3401 et seq. Employees or agents of the owner-operator shall not be considered employees of the licensed motor carrier for purposes of employment security taxation or compensation. As used in this subsection (Y), the following definitions apply: (i) "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 Kansas for the purpose of transporting persons or property; (ii) "licensed motor carrier" means any person, firm, corporation or other business entity that holds a certificate of convenience and necessity or a certificate of public service from the state corporation commission or is required to register motor carrier equipment pursuant to 49 U.S.C. § 14504; and (iii) "owner-operator" means a person, firm, corporation or other business entity that is the owner of a single motor vehicle that is driven exclusively by the owner under a lease agreement or contract with a licensed motor carrier*; and*

(Z) services performed by a petroleum landman on a contractual basis. As used in this subparagraph, "petroleum landman" means an individual performing services on a contractual basis who is not an individual who is an active officer of a corporation as described in subsection (i)(1)(A) that may include:

(i) Negotiating for the acquisition or divestiture of mineral rights;

(ii) negotiating business agreements that provide exploration for or development of minerals;

(iii) determining ownership in minerals through the research of public and private records;

(iv) reviewing the status of title, curing title defects, providing title due diligence and otherwise reducing title risk associated with ownership in minerals or the acquisition and divestiture of mineral properties;

(v) managing rights or obligations derived from ownership of interests in minerals; or

(vi) unitizing or pooling of interests in minerals. For purposes of this subparagraph, "minerals" includes oil, natural gas or petroleum. "Services" does not include services performed for a governmental entity or any organization described in section 501(c)(3) of the federal internal revenue code of 1986, or a federally recognized Indian tribe that is exempt from income taxation under section 501(a) of the code.

(j) "Employment office" means any office operated by this state and maintained by the secretary of labor for the purpose of assisting persons to become employed.

(k) "Fund" means the employment security fund established by this act, to which all contributions and reimbursement payments required and from which all benefits provided under this act shall be paid and including all money received from the federal government as reimbursements pursuant to section 204 of the federal-state extended compensation act of 1970, and amendments thereto.

(l) "State" includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the District of Columbia and the Virgin Islands.

(m) "Unemployment." An individual shall be deemed "unemployed" with respect to any week during which such individual performs no services and with respect to which no wages are payable to such individual, or with respect to any week of less than full-time work if the wages payable to such individual with respect to such week are less than such individual's weekly benefit amount.

(n) "Employment security administration fund" means the fund established by this act, from which administrative expenses under this act shall be paid.

(o) "Wages" means all compensation for services, including commissions, bonuses, back pay and the cash value of all remuneration, including benefits, paid in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash, shall be estimated and determined in accordance with rules and regulations prescribed by the secretary. Compensation payable to an individual ~~which~~ *that* has not been actually received by that individual within 21 days after the end of the pay period in which the compensation was earned shall be considered to have been paid on the 21st day after the end of that pay period. Effective January 1, 1986, gratuities, including tips received from persons other than the employing unit, shall be considered wages when reported in writing to the

employer by the employee. Employees must furnish a written statement to the employer, reporting all tips received if they total $20 or more for a calendar month whether the tips are received directly from a person other than the employer or are paid over to the employee by the employer. This includes amounts designated as tips by a customer who uses a credit card to pay the bill. Notwithstanding the other provisions of this subsection (o), wages paid in back pay awards or settlements shall be allocated to the week or weeks and reported in the manner as specified in the award or agreement, or, in the absence of such specificity in the award or agreement, such wages shall be allocated to the week or weeks in which such wages, in the judgment of the secretary, would have been paid. The term "wages" shall not include:

(1) That part of the remuneration ~~which~~ *that* has been paid in a calendar year to an individual by an employer or such employer's predecessor in excess of $3,000 for all calendar years prior to 1972, in excess of $4,200 for the calendar years 1972 to 1977, inclusive, in excess of $6,000 for calendar years 1978 to 1982, inclusive, in excess of $7,000 for the calendar year 1983, in excess of $8,000 for the calendar years 1984 to 2014, inclusive, and in excess of $12,000 with respect to employment during calendar year 2015, and in excess of $14,000 with respect to all calendar years thereafter, except that if the definition of the term "wages" as contained in the federal unemployment tax act is amended to include remuneration paid to an individual by an employer under the federal act in excess of $8,000 for the calendar years 1984-2014, inclusive, and in excess of $12,000 with respect to employment during calendar year 2015, and in excess of $14,000 with respect to all calendar years thereafter, wages shall include remuneration paid in a calendar year to an individual by an employer subject to this act or such employer's predecessor with respect to employment during any calendar year up to an amount equal to the dollar limitation specified in the federal unemployment tax act. For the purposes of this subsection (o)(1), the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government;

(2) the amount of any payment ~~(~~, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment~~)~~, made to, or on behalf of, an employee or any of such employee's dependents under a plan or system established by an employer ~~which~~ *that* makes provisions for employees generally, for a class or classes of employees or for such employees or a class or classes of employees and their dependents, on account of: (A) Sickness or accident disability, except in the case of any payment made to an employee or such employee's dependents, this subparagraph shall exclude from the term "wages" only payments ~~which~~ *that* are received under a workers compensation law. Any

third party ~~which~~ *that* makes a payment included as wages by reason of this subparagraph (2)(A) shall be treated as the employer with respect to such wages; or (B) medical and hospitalization expenses in connection with sickness or accident disability; or (C) death;

(3) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(4) any payment made to, or on behalf of, an employee or such employee's beneficiary:

(A) From or to a trust described in section 401(a) of the federal internal revenue code of 1986 ~~which~~ *that* is exempt from tax under section 501(a) of the federal internal revenue code of 1986 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust;

(B) under or to an annuity plan ~~which~~ *that*, at the time of such payment, is a plan described in section 403(a) of the federal internal revenue code of 1986;

(C) under a simplified employee pension as defined in section 408(k)(1) of the federal internal revenue code of 1986, other than any contribution described in section 408(k)(6) of the federal internal revenue code of 1986;

(D) under or to an annuity contract described in section 403(b) of the federal internal revenue code of 1986, other than a payment for the purchase of such contract ~~which~~ *that* was made by reason of a salary reduction agreement whether evidenced by a written instrument or otherwise;

(E) under or to an exempt governmental deferred compensation plan as defined in section 3121(v)(3) of the federal internal revenue code of 1986;

(F) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this subparagraph to take into account some portion or all of the increase in the cost of living, as determined by the secretary of labor, since retirement but only if such supplemental payments are under a plan ~~which~~ *that* is treated as a welfare plan under section 3(2)(B)(ii) of the federal employee retirement income security act of 1974; or

(G) under a cafeteria plan within the meaning of section 125 of the federal internal revenue code of 1986;

(5) the payment by an employing unit ~~(~~, without deduction from the remuneration of the employee~~)~~, of the tax imposed upon an employee under section 3101 of the federal internal revenue code of 1986 with respect

to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(6) remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(7) remuneration paid to or on behalf of an employee if and to the extent that at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the federal internal revenue code of 1986 relating to moving expenses;

(8) any payment or series of payments by an employer to an employee or any of such employee's dependents ~~which~~ *that* is paid:

(A) Upon or after the termination of an employee's employment relationship because of (i) death or (ii) retirement for disability; and

(B) under a plan established by the employer ~~which~~ *that* makes provisions for employees generally, a class or classes of employees or for such employees or a class or classes of employees and their dependents, other than any such payment or series of payments ~~which~~ *that* would have been paid if the employee's employment relationship had not been so terminated;

(9) remuneration for agricultural labor paid in any medium other than cash;

(10) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 129 of the federal internal revenue code of 1986 ~~which~~ *that* relates to dependent care assistance programs;

(11) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the federal internal revenue code of 1986;

(12) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(13) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 117 or 132 of the federal internal revenue code of 1986;

(14) any payment made, or benefit furnished, to or for the benefit of an employee, if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 of the federal internal revenue code of 1986 relating to educational assistance to the employee; or

(15) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(d) of the federal internal revenue code of 1986 relating to health savings accounts.

Nothing in any paragraph of subsection (o), other than paragraph (1), shall exclude from the term "wages": (1) Any employer contribution under a qualified cash or deferred arrangement, as defined in section 401(k) of the federal internal revenue code of 1986, to the extent that such contribution is not included in gross income by reason of section 402(a)(8) of the federal internal revenue code of 1986; or (2) any amount treated as an employer contribution under section 414(h)(2) of the federal internal revenue code of 1986.

Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this section as of the later of when the services are performed or when there is no substantial risk of forfeiture of the rights to such amount. Any amount taken into account as wages by reason of this paragraph, and the income attributable thereto, shall not thereafter be treated as wages for purposes of this section. For purposes of this paragraph, the term "nonqualified deferred compensation plan" means any plan or other arrangement for deferral of compensation other than a plan described in subsection (o)(4).

(p) "Week" means such period or periods of seven consecutive calendar days, as the secretary may by rules and regulations prescribe.

(q) "Calendar quarter" means the period of three consecutive calendar months ending March 31, June 30, September 30 or December 31, or the equivalent thereof as the secretary may by rules and regulations prescribe.

(r) "Insured work" means employment for employers.

(s) "Approved training" means any vocational training course or course in basic education skills, including a job training program authorized under the federal workforce investment act of 1998, approved by the secretary or a person or persons designated by the secretary.

(t) "American vessel" or "American aircraft" means any vessel or aircraft documented or numbered or otherwise registered under the laws of the United States; and any vessel or aircraft ~~which~~ *that* is neither documented or numbered or otherwise registered under the laws of the United States nor documented under the laws of any foreign country, if its crew performs service solely for one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

(u) "Institution of higher education," for the purposes of this section, means an educational institution ~~which~~ *that*:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized in this state to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program ~~which~~ *that* is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(4) is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection (u), all colleges and universities in this state are institutions of higher education for purposes of this section, except that no college, university, junior college or other postsecondary school or institution ~~which~~ *that* is operated by the federal government or any agency thereof shall be an institution of higher education for purposes of the employment security law.

(v) "Educational institution" means any institution of higher education, as defined in subsection (u) ~~of this section~~, or any institution, except private for profit institutions, in which participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher and ~~which~~ *that* is approved, licensed or issued a permit to operate as a school by the state department of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school or to an Indian tribe in the operation of an educational institution. The courses of study or training ~~which~~ *that* an educational institution offers may be academic, technical, trade or preparation for gainful employment in a recognized occupation.

(w) (1) "Agricultural labor" means any remunerated service:

(A) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife.

(B) In the employ of the owner or tenant or other operator of a farm, in connection with the operating, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(C) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section (15)(g) of the agricultural marketing act, as amended ~~(~~, 46 Stat. 1500, sec. 3; 12 U.S.C. § 1141j~~)~~, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(D) (i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than ½ of the commodity with respect to which such service is performed;

(ii) in the employ of a group of operators of farms ~~(~~, or a cooperative organization of which such operators are members~~)~~, in the performance of ~~service~~ *services* described in paragraph (i) ~~above of this subsection (w)(1)(D)~~, but only if such operators produced more than ½ of the commodity with respect to which such service is performed;

(iii) the provisions of paragraphs (i) and (ii) ~~above of this subsection (w)(1)(D)~~ shall not be deemed to be applicable with respect to ~~service~~ *services* performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(E) On a farm operated for profit if such service is not in the course of the employer's trade or business.

(2) "Agricultural labor" does not include ~~service~~ *services* performed prior to January 1, 1980, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the federal immigration and nationality act.

(3) As used in this subsection ~~(w)~~, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(4) For the purpose of this section, if an employing unit does not maintain sufficient records to separate agricultural labor from other employment, all services performed during any pay period by an individual for the person employing such individual shall be deemed to be agricultural labor if services performed during ½ or more of such pay period constitute agricultural labor; but if the services performed during more than ½ of any such pay period by an individual for the person employing such individual do not constitute agricultural labor, then none of the services of such individual for such period shall be deemed to be agricultural labor. As used in this subsection ~~(w)~~, the term "pay period" means a period of not more than 31 consecutive days for which a payment of remuneration is ordinarily made to the individual by the person employing such individual.

(x) "Reimbursing employer" means any employer who makes payments in lieu of contributions to the employment security fund as provided in ~~subsection (e) of~~ K.S.A. 44-710*(e)*, and amendments thereto.

(y) "Contributing employer" means any employer other than a reimbursing employer or rated governmental employer.

(z) "Wage combining plan" means a uniform national arrangement approved by the United States secretary of labor in consultation with the state unemployment compensation agencies and in which this state shall participate, whereby wages earned in one or more states are transferred to another state, called the "paying state," and combined with wages in the paying state, if any, for the payment of benefits under the laws of the paying state and as provided by an arrangement so approved by the United States secretary of labor.

(aa) "Domestic service" means any ~~service~~ *services* for a person in the operation and maintenance of a private household, local college club or local chapter of a college fraternity or sorority, as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise or vocation.

(bb) "Rated governmental employer" means any governmental entity ~~which~~ *that* elects to make payments as provided by K.S.A. 44-710d, and amendments thereto.

(cc) "Benefit cost payments" means payments made to the employment security fund by a governmental entity electing to become a rated governmental employer.

(dd) "Successor employer" means any employer, as described in subsection (h) ~~of this section~~, ~~which~~ *that* acquires or in any manner succeeds to: (1) Substantially all of the employing enterprises, organization, trade or business of another employer; or (2) substantially all the assets of another employer.

(ee) "Predecessor employer" means an employer, as described in subsection (h) ~~of this section~~, who has previously operated a business or portion of a business with employment to which another employer has succeeded.

(ff) "Lessor employing unit" means any independently established business entity ~~which~~ *that* engages in the business of providing leased employees to a client lessee.

(gg) "Client lessee" means any individual, organization, partnership, corporation or other legal entity leasing employees from a lessor employing unit.

(hh) "Qualifying injury" means a personal injury by accident arising out of and in the course of employment within the coverage of the Kansas workers compensation act, K.S.A. 44-501 et seq., and amendments thereto.

Sec. 12. K.S.A. 2020 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 44-711(e), 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 that 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 that is in excess of the amount that 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. §§ 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, "employment benefits within the employer's control" means benefits offered by the employer to employees that 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 that 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 when 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 un-

der 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 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 that is not a multiple of $1, such benefits shall be rounded to the next lower multiple of $1.

(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) Except as provided in subsection (k), for weeks commencing on and after January 1, 2014, *and ending before September 5, 2021,* 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.

(k) On and after the effective date of this act, a claimant shall be eligible for a maximum of 26 weeks of benefits. A claimant who filed a new claim on or after January 1, 2020, and before the effective date of this act shall be eligible for a maximum of 26 weeks of benefits including the number of weeks of benefits received after January 1, 2020, and before the effective date of this act. This subsection shall not apply to initial claims effective on and after ~~April 1~~ *September 5*, 2021.

(l) For weeks commencing on and after September 5, 2021, 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 5%, a claimant shall be eligible for a maximum of 16 weeks of benefits; (2) at least 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.

(m) Upon the secretary of labor's receipt of notification that the claimant has become employed, the secretary shall notify the secretary of the department for children and families in order that the secretary for children and families may determine the claimant's eligibility for state or federal benefits provided or facilitated by the department for children and families. The department of labor and the department for children and families shall enter into a memorandum of understanding that shall provide for the transfer of information as provided in this subsection.

Sec. 13. K.S.A. 2020 Supp. 44-705 is hereby amended to read as follows: 44-705. Except as provided by K.S.A. 44-757, and amendments thereto, an unemployed individual shall be eligible to receive benefits with respect to any week only if the secretary, or a person or persons designated by the secretary, finds that:

(a) The claimant has registered for work at and thereafter continued to report at an employment office in accordance with rules and regulations adopted by the secretary, except that, subject to the provisions of K.S.A. 44-704(a), and amendments thereto, the secretary may adopt rules and regulations that waive or alter either or both of the requirements of this subsection.

(b) The claimant has made a claim for benefits with respect to such week in accordance with rules and regulations adopted by the secretary.

(c) *(1)* The claimant is able to perform the duties of such claimant's customary occupation or the duties of other occupations that the claimant is reasonably fitted by training or experience, and is available for work, as demonstrated by the claimant's pursuit of the full course of action most reasonably calculated to result in the claimant's reemployment except that, notwithstanding any other provisions of this section, an unemployed claimant otherwise eligible for benefits shall not become ineligible for benefits:

~~(1)~~*(A)* Because of the claimant's enrollment in and satisfactory pursuit of approved training, including training approved under section 236(a)(1) of the trade act of 1974;

~~(2)~~*(B)* solely because such individual is seeking only part-time employment if the individual is available for a number of hours per week that are comparable to the individual's part-time work experience in the base period; or

~~(3)~~*(C)* because a claimant is not actively seeking work:

(i) During a state of disaster emergency proclaimed by the governor pursuant to K.S.A. 48-924 and 48-925, and amendments thereto;

(ii) in response to the spread of the public health emergency of COVID-19; and

(iii) the state's temporary waiver of the work search requirement under the employment security law for such claimant is in compliance with the families first coronavirus response act, public law 116-127.

(2) The secretary shall develop and implement procedures to address claimants who refuse to return to suitable work or refuse to accept an offer of suitable work without good cause. Such procedures shall include the receipt and processing of job refusal reports from employers, the evaluation of such reports in consideration of the claimant's work history and skills and suitability of the offered employment and guidelines for a determination of whether the claimant shall remain eligible for unemployment

benefits or has failed to meet the work search requirements of this subsection or the requirements of K.S.A. 2020 Supp. 44-706(c), and amendments thereto. In determining whether the employment offered is suitable, the secretary's considerations shall include whether the employment offers wages comparable to the claimant's recent employment and work duties that correspond to the claimant's education level and previous work experience. The secretary shall also consider whether the employment offers wages of at least the amount of the claimant's maximum weekly benefits.

(3) To facilitate the requirements of paragraph (2), the secretary shall provide readily accessible means for employers to notify the department when a claimant refuses to return to work or refuses an offer of employment, including by telephone, email or an online web portal. Nothing in this subsection shall be construed as to require an employer to report such job refusals to the department.

(4) At the time of receipt of notice from an employer pursuant to paragraph (3), the secretary shall, within 10 business days of receipt of such notice from the employer, provide a notice to the claimant who has refused to return to work or to accept an offer of suitable work without good cause. The method of providing the notice to the claimant shall be consistent with other correspondence from the department to the claimant and may include mail, telephone, email or through an online web portal. The notice shall, at minimum, include the following information:

(A) A summary of state employment security law regarding a claimant's duties to return to work or accept suitable work;

(B) a statement that the claimant has been or may be disqualified and the claimant's right to collect benefits has been or may be terminated for refusal to return to work or accept suitable work without good cause, as provided by this subsection and K.S.A. 2020 Supp. 44-706(c), and amendments thereto;

(C) an explanation of what constitutes suitable work under the employment security law; and

(D) instructions for contesting a denial of a claim if the denial is based upon a report by an employer that the claimant has refused to return to work or has refused to accept an offer of suitable work.

(5) For the purposes of this subsection, an inmate of a custodial or correctional institution shall be deemed to be unavailable for work and not eligible to receive unemployment compensation while incarcerated.

(d) (1) Except as provided further, the claimant has been unemployed for a waiting period of one week or the claimant is unemployed and has satisfied the requirement for a waiting period of one week under the shared work unemployment compensation program as provided in K.S.A. 44-757(k)(4), and amendments thereto, and that period of one week, in either case, occurs within the benefit year that includes the week

for which the claimant is claiming benefits. No week shall be counted as a week of unemployment for the purposes of this subsection:

(A) If benefits have been paid for such week;

(B) if the individual fails to meet with the other eligibility requirements of this section; or

(C) if an individual is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such state or of the United States finally determines that the claimant is not entitled to unemployment benefits under such other law, this subparagraph shall not apply.

(2) (A) The waiting week requirement of paragraph (1) shall not apply to:

(i) New claims by claimants who become unemployed as a result of an employer terminating business operations within this state, declaring bankruptcy or initiating a work force reduction pursuant to public law 100-379, the federal worker adjustment and retraining notification act, 29 U.S.C. §§ 2101 through 2109, as amended; or

(ii) new claims filed on or after April 5, 2020, through December 26, 2020, in accordance with the families first coronavirus response act, public law 116-127 and the federal CARES act, public law 116-136.

(B) The secretary shall adopt rules and regulations to administer the provisions of this paragraph.

(3) If the waiting week requirement of paragraph (1) applies, a claimant shall become eligible to receive compensation for the waiting period of one week, pursuant to paragraph (1), upon completion of three weeks of unemployment consecutive to such waiting period. This paragraph shall not apply to initial claims effective on and after April 1, 2021.

(e) For benefit years established on and after the effective date of this act, the claimant has been paid total wages for insured work in the claimant's base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's base period, except that the wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date that such individual filed a valid initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has returned to work and subsequently earned wages for insured work in an amount equal to at least eight times the claimant's current weekly benefit amount.

(f) The claimant participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the secretary, unless the secretary determines that: (1) The individual has completed such services;

or (2) there is justifiable cause for the claimant's failure to participate in such services.

(g) The claimant is returning to work after a qualifying injury and has been paid total wages for insured work in the claimant's alternative base period of not less than 30 times the claimant's weekly benefit amount and has been paid wages in more than one quarter of the claimant's alternative base period if:

(1) The claimant has filed for benefits within four weeks of being released to return to work by a licensed and practicing health care provider;

(2) the claimant files for benefits within 24 months of the date the qualifying injury occurred; and

(3) the claimant attempted to return to work with the employer where the qualifying injury occurred, but the individual's regular work or comparable and suitable work was not available.

Sec. 14. K.S.A. 2020 Supp. 44-706 is hereby amended to read as follows: 44-706. The secretary shall examine whether an individual has separated from employment for each week claimed. The secretary shall apply the provisions of this section to the individual's most recent employment prior to the week claimed. An individual shall be disqualified for benefits:

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

(1) The individual was forced to leave work because of illness or injury upon the advice of a licensed and practicing health care provider and, upon learning of the necessity for absence, immediately notified the employer thereof, or the employer consented to the absence, and after recovery from the illness or injury, when recovery was certified by a practicing health care provider, the individual returned to the employer and offered to perform services and the individual's regular work or compara-

ble and suitable work was not available. As used in this paragraph "health care provider" means any person licensed by the proper licensing authority of any state to engage in the practice of medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

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

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

(4) the spouse of an individual who is a member of the armed forces of the United States who left work because of the voluntary or involuntary transfer of the individual's spouse from one job to another job, which is for the same employer or for a different employer, at a geographic location which makes it unreasonable for the individual to continue work at the individual's job. For the purposes of this provision the term "armed forces" means active duty in the army, navy, marine corps, air force, coast guard or any branch of the military reserves of the United States;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) a police record documenting the abuse;

(iii) documentation that the abuser has been convicted of one or more of the offenses enumerated in articles 34 and 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto, where the victim was a family or household member;

(iv) medical documentation of the abuse;

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

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

(C) No evidence of domestic violence experienced by an individual, including the individual's statement and corroborating evidence, shall be disclosed by the department of labor unless consent for disclosure is given by the individual.

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

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

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

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

(i) The individual was absent or tardy without good cause;

(ii) the individual had knowledge of the employer's attendance expectation; and

(iii) the employer gave notice to the individual that future absence or tardiness may or will result in discharge.

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

(3) (A) The term "gross misconduct" as used in this subsection shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection. Gross misconduct shall include, but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to property; (iv) intentional infliction of personal injury; or (v) any conduct that constitutes a felony.

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

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

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

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

(a) The test was either:

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

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

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

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

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

(b) the test sample was collected either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) For purposes of this subsection:

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

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

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

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

(v) "controlled substance" ~~shall be defined~~ *means the same* as provided in K.S.A. 2020 Supp. 21-5701, and amendments thereto;

(vi) "required by law" means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a county resolution or municipal ordinance, or a policy relating to public safety adopted in an open meeting by the governing body of any special district or other local governmental entity;

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

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

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

(A) The employer discharged the individual after learning the indi-

vidual was seeking other work or when the individual gave notice of future intent to quit, except that the individual shall be disqualified after the time at which such individual intended to quit and any individual who commits misconduct after such individual gives notice to such individual's intent to quit shall be disqualified;

(B) the individual was making a good-faith effort to do the assigned work but was discharged due to:

(i) Inefficiency;

(ii) unsatisfactory performance due to inability, incapacity or lack of training or experience;

(iii) isolated instances of ordinary negligence or inadvertence;

(iv) good-faith errors in judgment or discretion; or

(v) unsatisfactory work or conduct due to circumstances beyond the individual's control; or

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

(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employment office of the secretary of labor, or to accept suitable work when offered to the individual by the employment office, the secretary of labor, or an employer, such disqualification shall begin with the week in which such failure occurred and shall continue until the individual becomes reemployed and has had earnings from insured work of at least three times such individual's determined weekly benefit amount. In determining whether or not any work is suitable for an individual, the secretary of labor, or a person or persons designated by the secretary, shall consider the degree of risk involved to health, safety and morals, physical fitness and prior training, experience and prior earnings, length of unemployment and prospects for securing local work in the individual's customary occupation or work for which the individual is reasonably fitted by training or experience, and the distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be disqualified for refusing an offer of suitable employment, or failing to apply for suitable employment when notified by an employment office, or for leaving the individual's most recent work accepted during approved training, including training approved under section 236(a)(1) of the trade act of 1974, if the acceptance of or applying for suitable employment or continuing such work would require the individual to terminate approved training and no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (2) if the remuneration, hours or other conditions of the work offered

are substantially less favorable to the individual than those prevailing for similar work in the locality; (3) if as a condition of being employed, the individual would be required to join or to resign from or refrain from joining any labor organization; and (4) if the individual left employment as a result of domestic violence, and the position offered does not reasonably accommodate the individual's physical, psychological, safety, or legal needs relating to such domestic violence.

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

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

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

(g) ~~For the period of five years beginning with the first day following the last week of unemployment for which the individual received benefits, or for five years from the date the act was committed, whichever is the later,~~ If the individual, or another in such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor, *unless the individual has repaid the full amount of the overpayment as determined by the secretary or the secretary's designee, including, but not limited to, the total amount of money erroneously paid as benefits or unlawfully obtained, interest, penalties and any other costs or fees provided by law. If the individual has made such repayment, the individual shall be disqualified for a period of one year for the first occurrence or five years for any subsequent occurrence, beginning with the first day following the date the department of labor confirmed the individual has successfully repaid the full amount of the overpayment*. In addition to the penalties set forth in K.S.A. 44-719, and amendments thereto, an individual who has knowingly made a false statement or representation or who has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor shall be liable for a penalty in the amount equal to 25% of the amount of benefits unlawfully received. Notwithstanding any other provision of law, such penalty shall be deposited into the employment security trust fund. *No person who is a victim of identify theft shall be subject to the provisions of this subsection. The secretary shall investigate all cases of an alleged false statement or representation or failure to disclose a material fact to ensure no victim of identity theft is disqualified, required to repay or subject to any penalty as provided by this subsection as a result of identity theft.*

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

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

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

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

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

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

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

benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

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

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

(p) For any week of unemployment on the basis of service as a school bus or other motor vehicle driver employed by a private contractor to

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

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

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

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

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

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

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

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

(2) If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

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

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

(u) If the individual was found not to have a disqualifying adjudication or conviction under K.S.A. 39-970 or 65-5117, and amendments thereto, was hired and then was subsequently convicted of a disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and amendments thereto. The disqualification shall begin the day following the separation and shall

continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount.

(v) Notwithstanding the provisions of any subsection, an individual shall not be disqualified for such week of part-time employment in a substitute capacity for an educational institution if such individual's most recent employment prior to the individual's benefit year begin date was for a non-educational institution and such individual demonstrates application for work in such individual's customary occupation or for work for which the individual is reasonably fitted by training or experience.

Sec. 15. K.S.A. 2020 Supp. 44-709 is hereby amended to read as follows: 44-709. (a) *Filing*. Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall: (1) Post and maintain printed statements furnished by the secretary without cost to the employer in places readily accessible to individuals in the service of the employer; and (2) provide any other notification to individuals in the service of the employer as required by the secretary pursuant to the families first coronavirus response act, public law 116-127.

(b) *Determination*. (1) Except as otherwise provided in this paragraph, a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the weekly benefit amount and the total amount of benefits payable with respect to the benefit year. If the claim is determined to be valid, the examiner shall send a notice to the last employing unit who shall respond within 10 days by providing the examiner all requested information including all information required for a decision under K.S.A. 44-706, and amendments thereto. The information may be submitted by the employing unit in person at an employment office of the secretary or by mail, by telefacsimile machine or by electronic mail. If the required information is not submitted or postmarked within a response time limit of 10 days after the examiner's notice was sent, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the employment security board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of

K.S.A. 44-706(d), and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

(2) The examiner may for good cause reconsider the examiner's decision and shall promptly notify the claimant and the most recent employing unit of the claimant, that the decision of the examiner is to be reconsidered, except that no reconsideration shall be made after the termination of the benefit year.

(3) Notwithstanding the provisions of any other statute, a decision of an examiner or special examiner shall be final unless the claimant or the most recent employing unit of the claimant files an appeal from the decision as provided in subsection (c), except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect. The appeal must be filed within 16 calendar days after the mailing of notice to the last known addresses of the claimant and employing unit or, if notice is not by mail, within 16 calendar days after the delivery of the notice to the parties.

(c) *Appeals*. Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or special examiner. The parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the employment security board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision, except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect.

(d) *Referees*. The secretary shall appoint, in accordance with K.S.A. 44-714(c), and amendments thereto, one or more referees to hear and decide disputed claims.

(e) *Time, computation and extension*. In computing the period of time for an employing unit response or for appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday,

in which event the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday.

(f) *Board of review.* ~~(1)~~ There is hereby created an employment security board of review, hereinafter referred to as the board~~, consisting~~.

(1) (A) Except as provided in subparagraph (B), the board shall consist of three members. Each member of the board shall be appointed for a term of four years as provided in this subsection. Not more than two members of the board shall belong to the same political party.

(B) On the effective date of this act, the board shall consist of six members. The six-member board shall consist of the following: (i) Three members appointed under subparagraph (A); and (ii) three members appointed for a term that shall expire upon the expiration of this subparagraph. Each member of the board appointed under subparagraph (B)(ii) shall be appointed as provided in this subsection. Not more than four members of the six-member board shall belong to the same political party. The provisions of this subparagraph shall expire on June 30, 2024.

(2) When a vacancy on the employment security board of review occurs, the workers compensation and employment security boards nominating committee established under K.S.A. 44-551, and amendments thereto, shall convene and submit a nominee to the governor for appointment to each vacancy on the employment security board of review, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. The governor shall either: (A) Accept and submit to the senate for confirmation the person nominated by the nominating committee; or (B) reject the nomination and request the nominating committee to nominate another person for that position. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the employment security board of review, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate.

(3) No member of the employment security board of review shall serve more than two consecutive terms. *This paragraph shall not apply to members of the board appointed under subsection (f)(1)(B)(ii). The service of a board member appointed under subsection (f)(1)(B)(ii) shall not constitute a term as contemplated in this paragraph.*

(4) Each member of the employment security board shall serve until a successor has been appointed and confirmed. Any vacancy in the membership of the board occurring prior to expiration of a term shall be filled by appointment for the unexpired term in the same manner as provided for original appointment of the member.

(5) Each member of the employment security board of review shall be entitled to receive as compensation for the member's services at the rate of $15,000 per year, together with the member's travel and other

necessary expenses actually incurred in the performance of the member's official duties in accordance with rules and regulations adopted by the secretary. Members' compensation and expenses shall be paid from the employment security administration fund.

(6) The employment security board of review shall organize annually by the election of a chairperson from among its members. The chairperson shall serve in that capacity for a term of one year and until a successor is elected. *For the purpose of hearing and determining cases, the board members may sit in panels. A board panel shall consist of three members with not more than two members belonging to the same political party. The chairperson may sit as a member of a panel and shall preside over such panel. When the chairperson is not a member of a hearing panel, the chairperson shall appoint a member of the panel to preside.* The board *or board panel* shall meet on the first Monday of each month or on the call of the chairperson or any two members of the board at the place designated. The secretary of labor shall appoint an executive secretary of the board and the executive secretary *or the executive secretary's designee* shall attend the meetings of the board *and board panels*.

(7) The employment security board of review *or board panel*, on its own motion, may affirm, modify or set aside any decision of a referee on the basis of the evidence previously submitted in the case; may direct the taking of additional evidence; or may permit any of the parties to initiate further appeal before it. The board *or board panel* shall permit such further appeal by any of the parties interested in a decision of a referee that overrules or modifies the decision of an examiner. The board *or board panel* may remove to itself the proceedings on any claim pending before a referee. Any proceedings so removed to the board *or board panel* shall be heard in accordance with the requirements of subsection (c). The board *or board panel* shall promptly notify the interested parties of its findings and decision.

(8) ~~Two~~*A simple majority of the* members of the employment security board of review *or board panel* shall constitute a quorum and no action of the board *or board panel* shall be valid unless it has the concurrence of ~~at least two~~ *a majority of its* members. A vacancy on the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(g) *Procedure*. The manner that disputed claims are presented, the reports on claims required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules of procedure prescribed by the employment security board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings and decisions

in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed. In the performance of its official duties, the board *or board panel* shall have access to all of the records that pertain to the disputed claim and are in the custody of the secretary of labor and shall receive the assistance of the secretary upon request.

(h) *Witness fees*. Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary travel expenses at rates fixed by the board. Such fees and expenses shall be deemed a part of the expense of administering this act.

(i) *Review of board action.* Any action of the employment security board of review *including that of a board panel,* may not be reconsidered after the mailing of the decision. An action of the board *or board panel* shall become final unless a petition for review in accordance with the Kansas judicial review act is filed within 16 calendar days after the date of the mailing of the decision. If an appeal has not been filed within 16 calendar days of the date of the mailing of the decision, the decision becomes final. No bond shall be required for commencing an action for such review. In addition to those persons having standing pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall have standing to obtain judicial review of an action of such board *or board panel*. The review proceeding, and the questions of law certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workers compensation act.

(j) Any finding of fact or law, judgment, determination, conclusion or final order made by the employment security board of review *or board panel* or any examiner, special examiner, referee or other person with authority to make findings of fact or law pursuant to the employment security law is not admissible or binding in any separate or subsequent action or proceeding, between a person and a present or previous employer brought before an arbitrator, court or judge of the state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k) In any proceeding or hearing conducted under this section, a party to the proceeding or hearing may appear before a referee or the employment security board of review *or board panel* either personally or by means of a designated representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If ~~only one~~ *a* party requests an in-person hearing, the referee *or board or board panel* shall have the discretion ~~of requiring~~ *to deny the request in the absence of good*

cause shown for the request by the requesting party. If a request for an in-person hearing is granted, the referee or board or board panel shall have the discretion to require all parties to appear in person or allow the party not requesting an in-person hearing to appear by telephone or other means of electronic communication. The notice of hearing shall include notice to the parties of their right to request an in-person hearing and instructions on how to make the request.

Sec. 16. K.S.A. 2020 Supp. 44-710 is hereby amended to read as follows: 44-710. (a) *Payment.* Contributions shall accrue and become payable by each contributing employer for each calendar year that the contributing employer is subject to the employment security law with respect to wages paid for employment. Such contributions shall become due and be paid by each contributing employer to the secretary for the employment security fund in accordance with such rules and regulations as the secretary may adopt and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of $.01 shall be disregarded unless it amounts to $.005 or more, in which case it shall be increased to $.01. Should contributions for any calendar quarter be less than $5, no payment shall be required.

(b) *Rates and base of contributions.* (1) Except as provided in paragraph (2)~~ of this subsection~~, each contributing employer shall pay contributions on wages paid by the contributing employer during each calendar year with respect to employment as provided in K.S.A. 44-710a, and amendments thereto. Except that, notwithstanding the federal law requiring the secretary of labor to annually recalculate the contribution rate, for calendar years 2010, 2011, 2012, 2013 and 2014, the secretary shall charge each contributing employer in rate groups 1 through 32 the contribution rate in the 2010 original tax rate computation table, with contributing employers in rate groups 33 through 51 being capped at a 5.4% contribution rate. For calendar year 2021, unemployment tax rates for eligible employers shall be limited to the standard rate schedule in K.S.A. 44-710a, and amendments thereto. Therefore, no additional solvency adjustment shall be applied.

(2) (A) If the congress of the United States either amends or repeals the Wagner-Peyser act, the federal unemployment tax act, the federal social security act, or subtitle C of chapter 23 of the federal internal revenue code of 1986, or any act or acts supplemental to or in lieu thereof, or any part or parts of any such law, or if any such law, or any part or parts thereof, are held invalid with the effect that appropriations of funds by congress and grants thereof to the state of Kansas for the payment of costs of administration of the employment security law are no longer available for such purposes; or (B) if employers in Kansas subject to the payment of

tax under the federal unemployment tax act are granted full credit against such tax for contributions or taxes paid to the secretary of labor, then, and in either such case, beginning with the year that the unavailability of federal appropriations and grants for such purpose occurs or that such change in liability for payment of such federal tax occurs and for each year thereafter, the rate of contributions of each contributing employer shall be equal to the total of 0.5% and the rate of contributions as determined for such contributing employer under K.S.A. 44-710a, and amendments thereto. The amount of contributions that each contributing employer becomes liable to pay under this paragraph (2) over the amount of contributions that such contributing employer would be otherwise liable to pay shall be credited to the employment security administration fund to be disbursed and paid out under the same conditions and for the same purposes as other moneys are authorized to be paid from the employment security administration fund, except that, if the secretary determines that as of the first day of January of any year there is an excess in the employment security administration fund over the amount required to be disbursed during such year, an amount equal to such excess as determined by the secretary shall be transferred to the employment security fund.

(c) *Charging of benefit payments.* (1) The secretary shall maintain a separate account for each contributing employer, and shall credit the contributing employer's account with all the contributions paid on the contributing employer's own behalf. Nothing in the employment security law shall be construed to grant any employer or individuals in such employer's service prior claims or rights to the amounts paid by such employer into the employment security fund either on such employer's own behalf or on behalf of such individuals. Benefits paid shall be charged against the accounts of each base period employer in the proportion that the base period wages paid to an eligible individual by each such employer bears to the total wages in the base period. Benefits shall be charged to contributing employers' accounts and rated governmental employers' accounts upon the basis of benefits paid during each twelve-month period ending on the computation date.

(2) (A) Benefits paid in benefit years established by valid new claims shall not be charged to the account of a contributing employer or rated governmental employer who is a base period employer if the examiner finds that claimant was separated from the claimant's most recent employment with such employer under any of the following conditions: (i) Discharged for misconduct or gross misconduct connected with the individual's work; (ii) leaving work voluntarily without good cause attributable to the claimant's work or the employer; or (iii) discharged from an employer directly impacted by COVID-19 in accordance with the families first coronavirus response act, public law 116-127.

(B) Where base period wage credits of a contributing employer or rated governmental employer represent part-time employment and the claimant continues in that part-time employment with that employer during the period for which benefits are paid, then that employer's account shall not be charged with any part of the benefits paid if the employer provides the secretary with information as required by rules and regulations. For the purposes of this subsection (c)(2)(B), "part-time employment" means any employment when an individual works less than full-time because the individual's services are not required for the customary, scheduled full-time hours prevailing at the work place or the individual does not customarily work the regularly scheduled full-time hours due to personal choice or circumstances.

(C) No contributing employer or rated governmental employer's account shall be charged with any extended benefits paid in accordance with the employment security law, except for weeks of unemployment beginning after December 31, 1978, all contributing governmental employers and governmental rated employers shall be charged an amount equal to all extended benefits paid.

(D) No contributing employer, rated governmental employer or reimbursing employer's account shall be charged for any additional benefits paid during the period July 1, 2003 through June 30, 2004.

(E) No contributing employer or rated governmental employer's account will be charged for benefits paid a claimant while pursuing an approved training course as defined in K.S.A. 44-703(s), and amendments thereto.

(F) No contributing employer or rated governmental employer's account shall be charged with respect to the benefits paid to any individual whose base period wages include wages for services not covered by the employment security law prior to January 1, 1978, to the extent that the employment security fund is reimbursed for such benefits pursuant to section 121 of public law 94-566 (90 Stat. 2673).

(G) With respect to weeks of unemployment beginning after December 31, 1977, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection (c)(2)(G), the term "previously uncovered services" means services that were not covered employment, at any time during the one-year period ending December 31, 1975, except to the extent that assistance under title II of the federal emergency jobs and unemployment assistance act of 1974 was paid on the basis of such services, and that:

(i) Are agricultural labor as defined in K.S.A. 44-703(w), and amendments thereto, or domestic service as defined in K.S.A. 44-703(aa), and amendments thereto;

(ii) are services performed by an employee of this state or a political subdivision thereof, as provided in K.S.A. 44-703(i)(3)(E), and amendments thereto; or

(iii) are services performed by an employee of a nonprofit educational institution that is not an institution of higher education.

(H) No contributing employer or rated governmental employer's account shall be charged with respect to their pro rata share of benefit charges if such charges are of $100 or less.

(I) Contributing employers, rated governmental employers and reimbursing employers shall be held harmless for and shall not be required to reimburse the state for claims or benefits paid that have been reported by the employer to the secretary and determined by the secretary as fraudulent or as an improper payment, unless the secretary determines the claims are not fraudulent or improper as provided by K.S.A. 44-710b(b)(2)(A), and amendments thereto. The time limitation for disputing a claim or an appeal of a claim as provided by this section, or by any other provision of the employment security law, shall not apply to identifications of fraud reported to the secretary for claims or benefits paid during the period beginning on March 15, 2020, through December 31, 2022. Contributing employers, rated governmental employers and reimbursing employers shall be refunded or credited, in the discretion of the employer, as provided by K.S.A. 44-710b, and amendments thereto, for any claims or benefits paid that have been reported as fraudulent.

(3) An employer's account shall not be relieved of charges relating to a payment that was made erroneously if the secretary determines that:

(A) The erroneous payment was made because the employer, or the agent of the employer, was at fault for failing to respond timely or adequately to a written request from the secretary for information relating to the claim for unemployment compensation; and

(B) the employer or agent has established a pattern of failing to respond timely or adequately to requests for information.

(C) For purposes of this paragraph:

(i) "Erroneous payment" means a payment that but for the failure by the employer or the employer's agent with respect to the claim for unemployment compensation, would not have been made; and

(ii) "pattern of failure" means repeated documented failure on the part of the employer or the agent of the employer to respond, taking into consideration the number of instances of failure in relation to the total volume of requests. An employer or employer's agent failing to respond as described in (c)(3)(A) shall not be determined to have engaged in a "pattern of failure" if the number of such failures during the year prior to such request is fewer than two, or less than 2%, of such requests, whichever is greater.

(D) Determinations of the secretary prohibiting the relief of charges pursuant to this section shall be subject to appeal or protest as other determinations of the agency with respect to the charging of employer accounts.

(E) This paragraph shall apply to erroneous payments established on and after the effective date of this act.

(4) The examiner shall notify any base period employer whose account will be charged with benefits paid following the filing of a valid new claim and a determination by the examiner based on all information relating to the claim contained in the records of the division of employment security. Such notice shall become final and benefits charged to the base period employer's account in accordance with the claim unless within 10 calendar days from the date the notice was sent, the base period employer requests in writing that the examiner reconsider the determination and furnishes any required information in accordance with the secretary's rules and regulations. In a similar manner, a notice of an additional claim followed by the first payment of benefits with respect to the benefit year, filed by an individual during a benefit year after a period in such year during which such individual was employed, shall be given to any base period employer of the individual who has requested such a notice within 10 calendar days from the date the notice of the valid new claim was sent to such base period employer. For purposes of this subsection (c)(3), if the required information is not submitted or postmarked within a response time limit of 10 days after the base period employer notice was sent, the base period employer shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the base period employer's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. The examiner shall notify the employer of the reconsidered determination, which shall be subject to appeal or further reconsideration, in accordance with the provisions of K.S.A. 44-709, and amendments thereto.

(5) *Time, computation and extension.* In computing the period of time for a base period employer response or appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday.

(d) *Pooled fund.* All contributions and payments in lieu of contributions and benefit cost payments to the employment security fund shall be pooled and available to pay benefits to any individual entitled thereto under the employment security law, regardless of the source of such contributions or payments in lieu of contributions or benefit cost payments.

(e) *Election to become reimbursing employer; payment in lieu of contributions.* (1) Any governmental entity, Indian tribes or tribal units, (subdivisions, subsidiaries or business enterprises wholly owned by such Indian tribes), for which services are performed as described in K.S.A. 44-703(i)(3)(E), and amendments thereto, or any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 that is exempt from income tax under section 501(a) of such code, that becomes subject to the employment security law may elect to become a reimbursing employer under this subsection (e)(1) and agree to pay the secretary for the employment security fund an amount equal to the amount of regular benefits and ½ of the extended benefits paid that are attributable to service in the employ of such reimbursing employer, except that each reimbursing governmental employer, Indian tribes or tribal units shall pay an amount equal to the amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, for governmental employers and December 21, 2000, for Indian tribes or tribal units to individuals for weeks of unemployment that begin during the effective period of such election.

(A) Any employer identified in this subsection (e)(1) may elect to become a reimbursing employer for a period encompassing not less than four complete calendar years if such employer files with the secretary a written notice of such election within the 30-day period immediately following January 1 of any calendar year or within the 30-day period immediately following the date when a determination of subjectivity to the employment security law is issued, whichever occurs later.

(B) Any employer that makes an election to become a reimbursing employer in accordance with subparagraph (A) will continue to be liable for payments in lieu of contributions until such employer files with the secretary a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which such termination shall first be effective.

(C) Any employer identified in this subsection (e)(1) that has remained a contributing employer and has been paying contributions under the employment security law for a period subsequent to January 1, 1972, may change to a reimbursing employer by filing with the secretary not later than 30 days prior to the beginning of any calendar year a written notice of election to become a reimbursing employer. Such election shall not be terminable by the employer for four complete calendar years.

(D) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after January 1 of the year such election is received.

(E) The secretary, in accordance with such rules and regulations as the secretary may adopt, shall notify each employer identified in subsection (e)(1) of any determination that the secretary may make of its status as an employer and of the effective date of any election that it makes to become a reimbursing employer and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of K.S.A. 44-710b, and amendments thereto.

(2) *Reimbursement reports and payments.* Payments in lieu of contributions shall be made in accordance with the provisions of subparagraph (A) by all reimbursing employers except the state of Kansas. Each reimbursing employer shall report total wages paid during each calendar quarter by filing quarterly wage reports with the secretary that shall be filed by the last day of the month following the close of each calendar quarter. Wage reports are deemed filed as of the date they are placed in the United States mail.

(A) At the end of each calendar quarter, or at the end of any other period as determined by the secretary, the secretary shall bill each reimbursing employer, except the state of Kansas: (i) An amount to be paid that is equal to the full amount of regular benefits plus ½ of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing employer; and (ii) for weeks of unemployment beginning after December 31, 1978, each reimbursing governmental employer and December 21, 2000, for Indian tribes or tribal units shall be certified an amount to be paid that is equal to the full amount of regular benefits and extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such reimbursing governmental employer.

(B) Payment of any bill rendered under subparagraph (A) shall be made not later than 30 days after such bill was mailed to the last known address of the reimbursing employer, or otherwise was delivered to such reimbursing employer, unless there has been an application for review and redetermination in accordance with subparagraph (D).

(C) Payments made by any reimbursing employer under the provisions of this subsection (e)(2) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of such employer.

(D) The amount due specified in any bill from the secretary shall be conclusive on the reimbursing employer, unless, not later than 15 days after the bill was mailed to the last known address of such employer, or was otherwise delivered to such employer, the reimbursing employer files an application for redetermination in accordance with K.S.A. 44-710b, and amendments thereto.

(E) Past due payments of amounts certified by the secretary under this section shall be subject to the same interest, penalties and actions required by K.S.A. 44-717, and amendments thereto. (1) If any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer is delinquent in making payments of amounts certified by the secretary under this section, the secretary may terminate such employer's election to make payments in lieu of contributions as of the beginning of the next calendar year and such termination shall be effective for such next calendar year and the calendar year thereafter so that the termination is effective for two complete calendar years. (2) Failure of the Indian tribe or tribal unit to make required payments, including assessment of interest and penalty within 90 days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions as described pursuant to paragraph (e)(1) for the following tax year unless payment in full is received before contribution rates for the next tax year are calculated. (3) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in paragraph (2), shall have such option reinstated, if after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, penalties or interest remain outstanding.

(F) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalties, after all collection activities deemed necessary by the secretary have been exhausted, will cause services performed by such tribe to not be treated as employment for purposes of K.S.A. 44-703(i)(3)(E), and amendments thereto. If an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the secretary shall immediately notify the United States internal revenue service and the United States department of labor. The secretary may determine that any Indian tribe that loses coverage pursuant to this paragraph may have services performed on behalf of such tribe again deemed "employment" if all contributions, payments in lieu of contributions, penalties and interest have been paid.

(G) In the discretion of the secretary, any employer who elects to become liable for payments in lieu of contributions and any nonprofit organization or group of nonprofit organizations described in section 501(c)(3) of the federal internal revenue code of 1986 or governmental reimbursing employer or Indian tribe or tribal unit who is delinquent in filing reports or in making payments of amounts certified by the secretary under this section shall be required within 60 days after the effective date of such election, in the case of an eligible employer so electing, or after the date

of notification to the delinquent employer under this subsection (e)(2)(G), in the case of a delinquent employer, to execute and file with the secretary a surety bond, except that the employer may elect, in lieu of a surety bond, to deposit with the secretary money or securities as approved by the secretary or to purchase and deliver to an escrow agent a certificate of deposit to guarantee payment. The amount of the bond, deposit or escrow agreement required by this subsection (e)(2)(G) shall not exceed 5.4% of the organization's taxable wages paid for employment by the eligible employer during the four calendar quarters immediately preceding the effective date of the election or the date of notification, in the case of a delinquent employer. If the employer did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the secretary. Upon the failure of an employer to comply with this subsection (e)(2)(G) within the time limits imposed or to maintain the required bond or deposit, the secretary may terminate the election of such eligible employer or delinquent employer, as the case may be, to make payments in lieu of contributions, and such termination shall be effective for the current and next calendar year.

(H) The state of Kansas shall make reimbursement payments quarterly at a fiscal year rate that shall be based upon: (i) The available balance in the state's reimbursing account as of December 31 of each calendar year; (ii) the historical unemployment experience of all covered state agencies during prior years; (iii) the estimate of total covered wages to be paid during the ensuing calendar year; (iv) the applicable fiscal year rate of the claims processing and auditing fee under K.S.A. 75-3798, and amendments thereto; and (v) actuarial and other information furnished to the secretary by the secretary of administration. In accordance with K.S.A. 75-3798, and amendments thereto, the claims processing and auditing fees charged to state agencies shall be deducted from the amounts collected for the reimbursement payments under this paragraph (H) prior to making the quarterly reimbursement payments for the state of Kansas. The fiscal year rate shall be expressed as a percentage of covered total wages and shall be the same for all covered state agencies. The fiscal year rate for each fiscal year will be certified in writing by the secretary to the secretary of administration on July 15 of each year and such certified rate shall become effective on the July 1 immediately following the date of certification. A detailed listing of benefit charges applicable to the state's reimbursing account shall be furnished quarterly by the secretary to the secretary of administration and the total amount of charges deducted from previous reimbursing payments made by the state. On January 1 of each year, if it is determined that benefit charges exceed the amount of prior reimbursing payments, an upward adjustment shall be made therefor in the fiscal year rate to be certified on the ensuing July 15. If total payments

exceed benefit charges, all or part of the excess may be refunded, at the discretion of the secretary, from the fund or retained in the fund as part of the payments that may be required for the next fiscal year.

(3) *Allocation of benefit costs.* The reimbursing account of each reimbursing employer shall be charged the full amount of regular benefits and ½ of the amount of extended benefits paid except that each reimbursing governmental employer's account shall be charged the full amount of regular benefits and extended benefits paid for weeks of unemployment beginning after December 31, 1978, to individuals whose entire base period wage credits are from such employer. When benefits received by an individual are based upon base period wage credits from more than one employer then the reimbursing employer's or reimbursing governmental employer's account shall be charged in the same ratio as base period wage credits from such employer bear to the individual's total base period wage credits. Notwithstanding any other provision of the employment security law, no reimbursing employer's or reimbursing governmental employer's account shall be charged for payments of extended benefits that are wholly reimbursed to the state by the federal government. Payments of unemployment compensation that are wholly reimbursed to the reimbursing employer by the federal government shall be charged for the purpose of such reimbursement under the federal CARES act, public law 116-136.

(A) *Proportionate allocation (when fewer than all reimbursing base period employers are liable).* If benefits paid to an individual are based on wages paid by one or more reimbursing employers and on wages paid by one or more contributing employers or rated governmental employers, the amount of benefits payable by each reimbursing employer shall be an amount that bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bears to the total base period wages paid to the individual by all of such individual's base period employers.

(B) *Proportionate allocation (when all base period employers are reimbursing employers).* If benefits paid to an individual are based on wages paid by two or more reimbursing employers, the amount of benefits payable by each such employer shall be an amount that bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of such individual's base period employers.

(4) *Group accounts.* Two or more reimbursing employers may file a joint application to the secretary for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employment of such reimbursing employers. Each such application shall identify and authorize a group representative to act as

the group's agent for the purposes of this ~~subsection (e)(4)~~ *paragraph*. Upon approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the secretary receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than four years and thereafter such account shall remain in effect until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The secretary shall adopt such rules and regulations as the secretary deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this ~~subsection (e)(4)~~ *paragraph*, for addition of new members to, and withdrawal of active members from such accounts, and for the determination of the amounts that are payable under this ~~subsection (e)(4)~~ *paragraph* by members of the group and the time and manner of such payments.

Sec. 17. K.S.A. 2020 Supp. 44-710a is hereby amended to read as follows: 44-710a. (a) *Classification of employers by the secretary.* The term "employer" as used in this section refers to contributing employers. The secretary shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts with a view of fixing such contribution rates as will reflect such experience. If, as of the date such classification of employers is made, the secretary finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the secretary finds incorrect or insufficient, the secretary shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the secretary at the time, and notify the employing unit thereof by mail addressed to its last known address. Unless such employing unit shall file the report or a corrected or sufficient report as the case may be, within 15 days after the mailing of such notice, the secretary shall compute such employing unit's rate of contributions on the basis of such estimates, and the rate as so determined shall be subject to increase but not to reduction on the basis of subsequently ascertained information. The secretary shall determine the contribution rate of each employer in accordance with the requirements of this section.

(1) *New employers.* (A) No employer will be eligible for a rate computation until there have been 24 consecutive calendar months immediately preceding the computation date throughout which benefits could have been charged against such employer's account.

(B) (i) (a) ~~For the rate year 2014 and each rate year thereafter,~~ Each employer who is not eligible for a rate contribution shall pay contributions equal to 2.7% of wages paid during each calendar year with regard to employment, except such employers engaged in the construction industry shall pay a rate equal to 6%.

(b) (1) ~~For the rate year 2015 and each rate year thereafter,~~ An employer who was not doing business in Kansas prior to July 1, 2014, shall be eligible for either the new employer rate under subsection (a)(1)(B)(i)(a) or the rate associated with the reserve ratio such employer experienced in the state which such employer was formerly located, but in no event less than 1% if such:

(A) Employer has been in operation in the other state or states for at least the three years immediately preceding the date such employer becomes a liable employer in Kansas;

(B) employer provides the authenticated account history from information accumulated from operations of such employer in the other state or all the other states necessary to compute a current Kansas rate; and

(C) employer's business operations established in Kansas are of the same nature, as defined by the North American industrial classification system, as conducted by such employer in the other state or states.

(2) The election authorized in subsection (a)(1)(B)(i)(b) of this section must be made in writing within 30 days after notice of Kansas liability. A rate in accordance with subsection (a)(1)(B)(i)(a) will be assigned unless a timely election has been made.

(3) If the election is made timely, the employer's account will receive the rate elected for the remainder of that rate year. The rate assigned for the next and subsequent years will be determined by the condition of the account on the computation date.

(ii) For purposes of this subsection (a), employers shall be classified by industrial activity in accordance with standard procedures as set forth in rules and regulations adopted by the secretary. Employers engaged in more than one type of industrial activity shall be classified by principal activity. All rates assigned will remain in effect for a complete calendar year. If the sale or acquisition of a new establishment would require reclassification of the employer to a different industry sector, the employer would be promptly notified, and the contribution rate applicable to the new industry sector would become effective the following January 1.

(C) "Computation date" means June 30 of each calendar year with respect to rates of contribution applicable to the calendar year beginning

with the following January 1. In arriving at contribution rates for each calendar year, contributions paid on or before July 31 following the computation date for employment occurring on or prior to the computation date shall be considered for each contributing employer who has been subject to this act for a sufficient period of time to have such employer's rate computed under this subsection (a).

(2) *Eligible employers.* (A) A reserve ratio shall be computed for each eligible employer by the following method: Total benefits charged to the employer's account for all past years shall be deducted from all contributions paid by such employer for all such years. The balance, positive or negative, shall be divided by the employer's average annual payroll, and the result shall constitute the employer reserve ratio.

(B) ~~(i) For rate year 2015 and prior rate years, negative account balance employers, as defined in subsection (d), shall pay contributions at the rate of 5.4% for each calendar year.~~

~~(ii) For rate year 2016 and rate years thereafter,~~ Negative account balance employers, as defined in subsection (d), shall pay contributions at the rate referenced in ~~section~~ *subsection* (a)(4)~~(D)~~(ii)*(B)*.

(C) Eligible employers, other than negative account balance employers, who do not meet the average annual payroll requirements as stated in K.S.A. 44-703(a)(2), and amendments thereto, will be issued the maximum rate indicated *by the maximum rate group of standard rate schedule—standard schedule 7* in subsection (a)(4)~~(D)~~*(B)*(ii) ~~of this section~~ until such employer establishes a new period of 24 consecutive calendar months immediately preceding the computation date throughout which benefits could have been charged against such employer's account by resuming the payment of wages. Contribution rates effective for each calendar year thereafter shall be determined as prescribed below.

~~(D) For rate year 2015 and prior rate years, as of each computation date, the total of the taxable wages paid during the 12-month period prior to the computation date by all employers eligible for rate computation, except negative account balance employers, shall be divided into 51 approximately equal parts designated in column A of schedule I as "rate groups," except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during the entire twelve-month period prior to the computation date. The lowest numbered of such rate groups shall consist of the employers with the most favorable reserve ratios, as defined in this section, whose combined taxable wages paid are less than 1.96% of all taxable wages paid by all eligible employers. Each succeeding higher numbered rate group shall consist of employers with reserve ratios that are less favorable than those of employers in the~~

~~preceding lower numbered rate groups and whose taxable wages when combined with the taxable wages of employers in all lower numbered rate groups equal the appropriate percentage of total taxable wages designated in column B of schedule I. Each eligible employer, other than a negative account balance employer, shall be assigned an experience factor designated under column C of schedule I in accordance with the rate group to which the employer is assigned on the basis of the employer's reserve ratio and taxable payroll. If an employer's taxable payroll falls into more than one rate group the employer shall be assigned the experience factor of the lower numbered rate group. If one or more employers have reserve ratios identical to that of the last employer included in the next lower numbered rate group, all such employers shall be assigned the experience factor designated to such last employer, notwithstanding the position of their taxable payroll in column B of schedule I.~~

~~SCHEDULE I—Eligible Employers~~

~~Column A~~	~~Column B~~	~~Column C~~
~~Rate group~~	~~Cumulative taxable payroll~~	~~Experience factor (Ratio to total wages)~~
~~1~~	~~Less than 1.96%~~	~~.025%~~
~~2~~	~~1.96% but less than 3.92~~	~~.04~~
~~3~~	~~3.92 but less than 5.88~~	~~.08~~
~~4~~	~~5.88 but less than 7.84~~	~~.12~~
~~5~~	~~7.84 but less than 9.80~~	~~.16~~
~~6~~	~~9.80 but less than 11.76~~	~~.20~~
~~7~~	~~11.76 but less than 13.72~~	~~.24~~
~~8~~	~~13.72 but less than 15.68~~	~~.28~~
~~9~~	~~15.68 but less than 17.64~~	~~.32~~
~~10~~	~~17.64 but less than 19.60~~	~~.36~~
~~11~~	~~19.60 but less than 21.56~~	~~.40~~
~~12~~	~~21.56 but less than 23.52~~	~~.44~~
~~13~~	~~23.52 but less than 25.48~~	~~.48~~
~~14~~	~~25.48 but less than 27.44~~	~~.52~~
~~15~~	~~27.44 but less than 29.40~~	~~.56~~
~~16~~	~~29.40 but less than 31.36~~	~~.60~~
~~17~~	~~31.36 but less than 33.32~~	~~.64~~
~~18~~	~~33.32 but less than 35.28~~	~~.68~~
~~19~~	~~35.28 but less than 37.24~~	~~.72~~
~~20~~	~~37.24 but less than 39.20~~	~~.76~~
~~21~~	~~39.20 but less than 41.16~~	~~.80~~
~~22~~	~~41.16 but less than 43.12~~	~~.84~~
~~23~~	~~43.12 but less than 45.08~~	~~.88~~
~~24~~	~~45.08 but less than 47.04~~	~~.92~~
~~25~~	~~47.04 but less than 49.00~~	~~.96~~

Column A Rate group	Column B Cumulative taxable payroll	Column C Experience factor (Ratio to total wages)
26	49.00 but less than 50.96	1.00
27	50.96 but less than 52.92	1.04
28	52.92 but less than 54.88	1.08
29	54.88 but less than 56.84	1.12
30	56.84 but less than 58.80	1.16
31	58.80 but less than 60.76	1.20
32	60.76 but less than 62.72	1.24
33	62.72 but less than 64.68	1.28
34	64.68 but less than 66.64	1.32
35	66.64 but less than 68.60	1.36
36	68.60 but less than 70.56	1.40
37	70.56 but less than 72.52	1.44
38	72.52 but less than 74.48	1.48
39	74.48 but less than 76.44	1.52
40	76.44 but less than 78.40	1.56
41	78.40 but less than 80.36	1.60
42	80.36 but less than 82.32	1.64
43	82.32 but less than 84.28	1.68
44	84.28 but less than 86.24	1.72
45	86.24 but less than 88.20	1.76
46	88.20 but less than 90.16	1.80
47	90.16 but less than 92.12	1.84
48	92.12 but less than 94.08	1.88
49	94.08 but less than 96.04	1.92
50	96.04 but less than 98.00	1.96
51	98.00 and over	2.00

(E) For rate year 2015 and prior rate years, negative account balance employers shall, in addition to paying the rate provided for in subsection (a)(2)(B) of this section, pay a surcharge based on the size of the employer's negative reserve ratio, the calculation which is provided for in subsection (a)(2) of this section. The amount of the surcharge shall be determined from column B2 of schedule II of this section for calendar years 2012, 2013, 2014 and from column B4 of schedule II of this section for each calendar year after 2014. Each negative account balance employer who does not satisfy the requirements to have an average annual payroll, as defined by K.S.A. 44-703(a)(2), and amendments thereto, shall be assigned a surcharge of equal to the maximum negative ratio surcharge from column B2 of schedule II of this section for calendar years 2012, 2013 and 2014. Funds from the surcharge paid according to this subsection (a)(2)(E), and amendments thereto, shall be used to pay princi-

~~pal and interest due on funds received from the federal unemployment account under title XII of the social security act, (42 U.S.C. §§ 1321 to 1324), in the following manner:~~

~~(i) For each calendar year 2012, 2013 and 2014, an additional 0.10% of the taxable wages paid by all negative account balance employers with a negative reserve ratio between 0.0% and 19.9% shall be designated an interest assessment surcharge and paid into the employment security interest assessment fund for the purpose of paying interest due and owing on funds received from the federal unemployment account under title XII of the social security act. The total surcharges assessed, including the additional 0.10% surcharge mentioned above, on such employers are listed in schedule II column B2. For the calendar year 2015, the surcharge rate for negative balance employers with a negative reserve ratio between 0.0% and 19.9% shall be as listed in schedule II column B4.~~

~~(ii) For the calendar years 2012, 2013 and 2014, an additional surcharge on negative balance employers with a negative reserve ratio of 20.0% and higher shall be designated an interest assessment surcharge and deposited in the employment security interest assessment fund. The additional surcharge shall be used for the purposes of paying interest due and owing on funds received from the federal unemployment account under title XII of the social security act. The total surcharge including the additional surcharge on such employers is listed in schedule II column B3 of this section.~~

~~(iii) For any succeeding year in which interest is due and owing on funds received from the federal unemployment account under title XII of the social security act, the secretary of labor may adjust the surcharge amounts necessary to pay such interest;~~

~~(iv) the portion of such surcharge used for the payment of such interest shall not be included in the calculation of such employers reserve ratio pursuant to subsection (a)(2). The portion of such surcharge used for the payment of principal shall be included in the calculation of such employers reserve ratio pursuant to subsection (a)(2); and~~

~~(v) if the amounts collected under this subsection are in excess of the amounts needed to pay interest due, the amounts in excess shall remain in the employment security interest assessment fund to be used to pay interest in future years. Whenever the secretary certifies all interest payments have been paid pursuant to this section, any excess funds remaining in the employment security interest assessment fund shall be transferred to the employment security trust fund for the purpose of paying any remaining principal amount due for advances described in this section. In the event that the amount transferred from the employment security interest assessment fund exceeds such remaining amount of principal due, the balance shall be used for the purposes of the employment security trust fund.~~

~~SCHEDULE II—Surcharge on Negative Accounts~~

~~Column A~~	~~Column B1~~	~~Column B2~~	~~Column B3~~	~~Column B4~~
~~Negative Reserve Ratio~~	~~Surcharge as a percent of taxable wages~~	~~Surcharge as a percent of taxable wages~~	~~Surcharge as a percent of taxable wages~~	~~Surcharge as a percent of taxable wages~~
~~Less than 2.0%~~	~~0.20%~~	~~0.30%~~		~~0.10%~~
~~2.0% but less than 4.0~~	~~0.40~~	~~0.50~~		~~0.20~~
~~4.0 but less than 6.0~~	~~0.60~~	~~0.70~~		~~0.30~~
~~6.0 but less than 8.0~~	~~0.80~~	~~0.90~~		~~0.40~~
~~8.0 but less than 10.0~~	~~1.00~~	~~1.10~~		~~0.50~~
~~10.0 but less than 12.0~~	~~1.20~~	~~1.30~~		~~0.60~~
~~12.0 but less than 14.0~~	~~1.40~~	~~1.50~~		~~0.70~~
~~14.0 but less than 16.0~~	~~1.60~~	~~1.70~~		~~0.80~~
~~16.0 but less than 18.0~~	~~1.80~~	~~1.90~~		~~0.90~~
~~18.0 but less than 20.0~~	~~2.00~~	~~2.10~~		~~1.00~~
~~20.0 but less than 22.0~~	~~2.00~~		~~2.20~~	~~1.10~~
~~22.0 but less than 24.0~~	~~2.00~~		~~2.40~~	~~1.20~~
~~24.0 but less than 26.0~~	~~2.00~~		~~2.60~~	~~1.30~~
~~26.0 but less than 28.0~~	~~2.00~~		~~2.80~~	~~1.40~~
~~28.0 but less than 30.0~~	~~2.00~~		~~3.00~~	~~1.50~~
~~30.0 but less than 32.0~~	~~2.00~~		~~3.20~~	~~1.60~~
~~32.0 but less than 34.0~~	~~2.00~~		~~3.40~~	~~1.70~~
~~34.0 but less than 36.0~~	~~2.00~~		~~3.60~~	~~1.80~~
~~36.0 but less than 38.0~~	~~2.00~~		~~3.80~~	~~1.90~~
~~38.0 and over~~	~~2.00~~		~~4.00~~	~~2.00~~

(D) If the amounts collected from negative account balance employers and paid into the employment security interest assessment fund for the purpose of paying interest due and owing on funds received from the federal unemployment account under title XII of the social security act are in excess of the amounts needed to pay interest due, the amounts in excess shall remain in the employment security interest assessment fund to be used to pay interest in future years. Whenever the secretary certifies all interest payments have been paid, any excess funds remaining in the employment security interest assessment fund shall be transferred to the employment security trust fund for the purpose of paying any remaining principal amount due for advances described in this section. In the event that the amount transferred from the employment security interest assessment fund exceeds such remaining amount of principal due, the balance shall be used for the purposes of the employment security trust fund.

(3) *Entering and expanding employer.* (A) The secretary, as a method of providing for a reduced rate of contributions to an employer shall verify the qualifications in this statute that bear a direct relation to unemployment risk for that employer.

(B) If, as of the computation date, an eligible, positive balance employer's reserve ratio is significantly affected due to an increase in the employer's taxable payroll of at least 100% and such increase is attributable to a growth in employment, and not to a change in the taxable wage

base from the previous year, the secretary shall assign a reduced rate of contributions for a period of three years.

(i) Such reduced rate of contributions shall be the new employer rate described in subsection (a)(1)(B)(i)(a), or a rate based on the employer's demonstrated risk as reflected in the employer's reserve fund ratio history.

(ii) To be eligible for such reduced rate, the employer must maintain a positive account balance throughout the reduced-rate period and must have an increase in account balance for each year.

(4) ~~*Planned yield.* (A) For rate year 2015 and prior rate years, the average required yield shall be determined from schedule III of this section, and the planned yield on total wages in column B of schedule III shall be determined by the reserve fund ratio in column A of schedule III. The reserve fund ratio shall be determined by dividing total assets in the employment security fund provided for in K.S.A. 44-712(a), and amendments thereto, excluding all moneys credited to the account of this state pursuant to section 903 of the federal social security act, as amended, which have been appropriated by the state legislature, whether or not withdrawn from the trust fund, and excluding contributions not yet paid on July 31 by total payrolls for contributing employers for the preceding fiscal year which ended June 30.~~

~~(B)~~*(A)* For ~~the~~ *each* rate year ~~2016 and rate years thereafter~~, the contribution schedule in effect shall be determined by the *applicable* fund control table and rate schedule table of subsection (a)(4)~~(D)~~*(B)*.

~~SCHEDULE III—Fund Control Ratios to Total Wages~~

~~Column A Reserve Fund Ratio~~	~~Column B Planned Yield~~
~~4.500 and over~~	~~0.00~~
~~4.475 but less than 4.500~~	~~0.01~~
~~4.450 but less than 4.475~~	~~0.02~~
~~4.425 but less than 4.450~~	~~0.03~~
~~4.400 but less than 4.425~~	~~0.04~~
~~4.375 but less than 4.400~~	~~0.05~~
~~4.350 but less than 4.375~~	~~0.06~~
~~4.325 but less than 4.350~~	~~0.07~~
~~4.300 but less than 4.325~~	~~0.08~~
~~4.275 but less than 4.300~~	~~0.09~~
~~4.250 but less than 4.275~~	~~0.10~~
~~4.225 but less than 4.250~~	~~0.11~~
~~4.200 but less than 4.225~~	~~0.12~~
~~4.175 but less than 4.200~~	~~0.13~~
~~4.150 but less than 4.175~~	~~0.14~~
~~4.125 but less than 4.150~~	~~0.15~~

~~Column A~~	~~Column B~~
~~Reserve Fund Ratio~~	~~Planned Yield~~
~~4.100 but less than 4.125~~	~~0.16~~
~~4.075 but less than 4.100~~	~~0.17~~
~~4.050 but less than 4.075~~	~~0.18~~
~~4.025 but less than 4.050~~	~~0.19~~
~~4.000 but less than 4.025~~	~~0.20~~
~~3.950 but less than 4.000~~	~~0.21~~
~~3.900 but less than 3.950~~	~~0.22~~
~~3.850 but less than 3.900~~	~~0.23~~
~~3.800 but less than 3.850~~	~~0.24~~
~~3.750 but less than 3.800~~	~~0.25~~
~~3.700 but less than 3.750~~	~~0.26~~
~~3.650 but less than 3.700~~	~~0.27~~
~~3.600 but less than 3.650~~	~~0.28~~
~~3.550 but less than 3.600~~	~~0.29~~
~~3.500 but less than 3.550~~	~~0.30~~
~~3.450 but less than 3.500~~	~~0.31~~
~~3.400 but less than 3.450~~	~~0.32~~
~~3.350 but less than 3.400~~	~~0.33~~
~~3.300 but less than 3.350~~	~~0.34~~
~~3.250 but less than 3.300~~	~~0.35~~
~~3.200 but less than 3.250~~	~~0.36~~
~~3.150 but less than 3.200~~	~~0.37~~
~~3.100 but less than 3.150~~	~~0.38~~
~~3.050 but less than 3.100~~	~~0.39~~
~~3.000 but less than 3.050~~	~~0.40~~
~~2.950 but less than 3.000~~	~~0.41~~
~~2.900 but less than 2.950~~	~~0.42~~
~~2.850 but less than 2.900~~	~~0.43~~
~~2.800 but less than 2.850~~	~~0.44~~
~~2.750 but less than 2.800~~	~~0.45~~
~~2.700 but less than 2.750~~	~~0.46~~
~~2.650 but less than 2.700~~	~~0.47~~
~~2.600 but less than 2.650~~	~~0.48~~
~~2.550 but less than 2.600~~	~~0.49~~
~~2.500 but less than 2.550~~	~~0.50~~
~~2.450 but less than 2.500~~	~~0.51~~
~~2.400 but less than 2.450~~	~~0.52~~
~~2.350 but less than 2.400~~	~~0.53~~
~~2.300 but less than 2.350~~	~~0.54~~
~~2.250 but less than 2.300~~	~~0.55~~
~~2.200 but less than 2.250~~	~~0.56~~

~~Column A~~	~~Column B~~
~~Reserve Fund Ratio~~	~~Planned Yield~~
~~2.150 but less than 2.200~~	~~0.57~~
~~2.100 but less than 2.150~~	~~0.58~~
~~2.050 but less than 2.100~~	~~0.59~~
~~2.000 but less than 2.050~~	~~0.60~~
~~1.975 but less than 2.000~~	~~0.61~~
~~1.950 but less than 1.975~~	~~0.62~~
~~1.925 but less than 1.950~~	~~0.63~~
~~1.900 but less than 1.925~~	~~0.64~~
~~1.875 but less than 1.900~~	~~0.65~~
~~1.850 but less than 1.875~~	~~0.66~~
~~1.825 but less than 1.850~~	~~0.67~~
~~1.800 but less than 1.825~~	~~0.68~~
~~1.775 but less than 1.800~~	~~0.69~~
~~1.750 but less than 1.775~~	~~0.70~~
~~1.725 but less than 1.750~~	~~0.71~~
~~1.700 but less than 1.725~~	~~0.72~~
~~1.675 but less than 1.700~~	~~0.73~~
~~1.650 but less than 1.675~~	~~0.74~~
~~1.625 but less than 1.650~~	~~0.75~~
~~1.600 but less than 1.625~~	~~0.76~~
~~1.575 but less than 1.600~~	~~0.77~~
~~1.550 but less than 1.575~~	~~0.78~~
~~1.525 but less than 1.550~~	~~0.79~~
~~1.500 but less than 1.525~~	~~0.80~~
~~1.475 but less than 1.500~~	~~0.81~~
~~1.450 but less than 1.475~~	~~0.82~~
~~1.425 but less than 1.450~~	~~0.83~~
~~1.400 but less than 1.425~~	~~0.84~~
~~1.375 but less than 1.400~~	~~0.85~~
~~1.350 but less than 1.375~~	~~0.86~~
~~1.325 but less than 1.350~~	~~0.87~~
~~1.300 but less than 1.325~~	~~0.88~~
~~1.275 but less than 1.300~~	~~0.89~~
~~1.250 but less than 1.275~~	~~0.90~~
~~1.225 but less than 1.250~~	~~0.91~~
~~1.200 but less than 1.225~~	~~0.92~~
~~1.175 but less than 1.200~~	~~0.93~~
~~1.150 but less than 1.175~~	~~0.94~~
~~1.125 but less than 1.150~~	~~0.95~~
~~1.100 but less than 1.125~~	~~0.96~~
~~1.075 but less than 1.100~~	~~0.97~~

~~Column A — Column B~~
~~Reserve Fund Ratio — Planned Yield~~
~~1.050 but less than 1.075....0.98~~
~~1.025 but less than 1.050....0.99~~
~~1.000 but less than 1.025....1.00~~
~~0.900 but less than 1.000....1.01~~
~~0.800 but less than 0.900....1.02~~
~~0.700 but less than 0.800....1.03~~
~~0.600 but less than 0.700....1.04~~
~~0.500 but less than 0.600....1.05~~
~~0.400 but less than 0.500....1.06~~
~~0.300 but less than 0.400....1.07~~
~~0.200 but less than 0.300....1.08~~
~~0.100 but less than 0.200....1.09~~
~~Less than 0.100%....1.10~~

~~(C) *Adjustment to taxable wages.* For rate year 2015 and prior rate years, the planned yield as a percent of total wages, as determined in this subsection (a)(4), shall be adjusted to taxable wages by multiplying by the ratio of total wages to taxable wages for all contributing employers for the preceding fiscal year ending June 30, except, with regard to a year in which the taxable wage base changes. The taxable wages used in the calculation for such a year and the following year shall be an estimate of what the taxable wages would have been if the new taxable wage base had been in effect during all of the preceding fiscal year ending June 30.~~

~~(D)~~*(B) Effective rates.* (i) ~~For rate year 2016 and ensuing rate years,~~ Employer contribution rates to be effective for ~~the ensuing~~ *each* calendar year shall be determined by the *applicable rate schedule in clause (ii) and the* fund control table *for the rate year as specified* contained in this ~~section~~ *clause*. The average high cost multiple of the trust fund as of the computation date shall determine the contribution schedule in effect for the next rate year. For purposes of subsection (a)(4)~~(D)~~*(B)*(i) ~~and (v)~~, the average high cost multiple is the reserve fund ratio~~, as defined by subsection (a)(4)(A),~~ divided by the average high benefit cost rate. The average high benefit cost rate shall be determined by averaging the three highest benefit cost rates over the last 20 years from the preceding fiscal year which ended June 30. The high benefit cost rate is defined by dividing total benefits paid in the fiscal year by total payrolls for covered employers in the fiscal year. *The reserve fund ratio shall be determined by dividing total assets in the employment security fund provided for in K.S.A. 44-712(a), and amendments thereto, excluding all moneys credited to the account of this state pursuant to section 903 of the federal social security act, as amended, that have been appropriated by the legislature, whether or not withdrawn from the trust fund, and excluding contributions not*

yet paid on July 31, by total payrolls for contributing employers for the preceding fiscal year that ended on June 30.

Fund Control Table *A*
For Rate Years 2016-2021

Lower AHCM Threshold	Upper AHCM Threshold	Solvency Adjustment to ~~Standard~~ Rate *per Standard Rate Schedule*
~~-1000.00000~~ *1,000.00000*	0.19999	1.60%
0.20000	0.44999	1.40%
0.45000	0.59999	1.20%
0.60000	0.74999	1.00%
0.75000	1.14999	0.00%
1.15000	~~1000.0000~~*1,000.00000*	-0.50%

Fund Control Table B
For Rate Year 2022 and Ensuing Calendar Years

KS SUTA Tax Rate Schedules		*Lower AHCM Threshold*	*Upper AHCM Threshold*	*Solvency/Credit Adjustment to Maximum Standard Rate*	*Solvency/Credit Adjustment as a Rate Group Multiplier to Standard, Earned Rate Group*	*Solvency/Credit Adjustment as a Total % to Employer's Standard Earned Rate Group*
Solvency Schedules (1-6)	*1*	*1,000.00000*	*0.00001*	*2.00%*	*0.05263%*	*26.32%*
	2	*0.00000*	*0.24999*	*1.80%*	*0.04737%*	*23.68%*
	3	*0.25000*	*0.44999*	*1.60%*	*0.04211%*	*21.05%*
	4	*0.45000*	*0.59999*	*1.40%*	*0.03684%*	*18.42%*
	5	*0.60000*	*0.69999*	*1.20%*	*0.03158%*	*15.79%*
	6	*0.70000*	*0.74999*	*1.00%*	*0.02632%*	*13.16%*
Standard Schedule (7)	*7*	*0.75000*	*1.24999*	*0.00%*	*0.00000%*	*0.00%*
Credit Schedules (8-13)	*8*	*1.25000*	*1.29999*	*1.00%*	*0.02632%*	*13.16%*
	9	*1.30000*	*1.39999*	*1.20%*	*0.03158%*	*15.79%*
	10	*1.40000*	*1.54999*	*1.40%*	*0.03684%*	*18.42%*
	11	*1.55000*	*1.74999*	*1.60%*	*0.04211%*	*21.05%*
	12	*1.75000*	*1.99999*	*1.80%*	*0.04737%*	*23.68%*
	13	*2.00000*	*1,000.00000*	*2.00%*	*0.05263%*	*26.32%*

(ii) *(a)* ~~For rate year 2016 and ensuing rate years,~~ Eligible employers shall be classified *by rate group* according to the standard rate schedule–*standard rate schedule 7* in this section, ~~subject to any adjustment pursuant to the effective rate schedule~~ for that rate year. *Except as provided in subclause (b), for rate years 2016 through 2021, the rate pursuant to the standard rate schedule as adjusted by fund control table A shall apply. Except as provided in subclause (b), for rate year 2022 and ensuing calendar years, the rate pursuant to standard rate schedule 7, solvency schedules*

1 through 6 or credit schedules 8 through 13 shall apply as provided by fund control table B.

(b) (1) In the event the full transfer of $250,000,000 is not made as provided in section 6, and amendments thereto, to the employment security fund on or before July 15, 2021, all contributing employers shall pay the rate as set forth in standard rate schedule–standard rate schedule 7 for the 2022 calendar year.

(2) In the event the second transfer of up to $250,000,000 is not made as provided in section 6, and amendments thereto, to the employment security fund on or before July 15, 2022, all contributing employers shall pay the rate as set forth in standard rate schedules–standard rate schedule 7 for the 2023 calendar year.

STANDARD RATE SCHEDULE -
STANDARD RATE SCHEDULE 7

Rate Group	Lower Reserve Ratio Limit	Upper Reserve Ratio Limit	Standard Rate
1	18.590	1,000,000.000	0.20%
2	17.875	18.589	0.40%
3	17.160	17.874	0.60%
4	16.445	17.159	0.80%
5	15.730	16.444	1.00%
6	15.015	15.729	1.20%
7	14.300	15.014	1.40%
8	13.585	14.299	1.60%
9	12.870	13.584	1.80%
10	12.155	12.869	2.00%
11	11.440	12.154	2.20%
12	10.725	11.439	2.40%
13	10.010	10.724	2.60%
14	9.295	10.009	2.80%
15	8.580	9.294	3.00%
16	7.865	8.579	3.20%
17	7.150	7.864	3.40%
18	6.435	7.149	3.60%
19	5.720	6.434	3.80%
20	5.005	5.719	4.00%
21	4.290	5.004	4.20%
22	3.575	4.289	4.40%
23	2.860	3.574	4.60%
24	2.145	2.859	4.80%
25	1.430	2.144	5.00%
26	0.715	1.429	5.20%
27	0.000	0.714	5.40%

Rate Group	Lower Reserve Ratio Limit	Upper Reserve Ratio Limit	Standard Rate
N1	-0.714	-0.001	5.60%
N2	-1.429	-0.715	5.80%
N3	-2.144	-1.430	6.00%
N4	-2.859	-2.145	6.20%
N5	-3.574	-2.860	6.40%
N6	-4.289	-3.575	6.60%
N7	-5.004	-4.290	6.80%
N8	-5.719	-5.005	7.00%
N9	-6.434	-5.720	7.20%
N10	-7.149	-6.435	7.40%
N11	-1,000,000.000	-7.150	7.60%

~~(iii) For all rate years prior to 2016, except with regard to rates for negative account balance employers, employer contribution rates to be effective for the ensuing calendar year shall be computed by adjusting proportionately the experience factors from schedule I of this section to the required yield on taxable wages. For the purposes of this subsection (a)(4), all rates computed shall be rounded to the nearest .01% and for calendar year 1983 and ensuing calendar years, the maximum effective contribution rate shall not exceed 5.4%.~~

~~(iv) For rate years 2007 through 2015, employers who are current in filing quarterly wage reports and in payment of all contributions due and owing, shall be issued a contribution rate based upon the following reduction: For rate groups 1 through 5, the rates would be reduced to 0.00%; for rate groups 6 through 28, the rates would be reduced by 50%; for rate groups 29 through 51, the rates would be reduced by 40%.~~

~~(v) For rate year 2014 and rate years thereafter, an eligible employer other than a negative account balance employer, who has filed all reports due and paid all contributions due and owing on or before January 31 of the applicable year is entitled to a rate discount of 15% except as provided in this subsection. For rate year 2015 and rate years thereafter, an eligible employer other than a negative account balance employer, who has filed all reports due and paid all contributions due and owing on or before January 31 of the applicable year is entitled to a rate discount of 25% except as provided in this subsection. This discount shall not be in effect if other reduced rates pursuant to subsections (a)(4)(D)(i) through (iv) are in effect. This discount shall not be available for a rate year if the average high cost multiple, as defined in subsection (a)(4)(D)(i), of the employment security trust fund balance falls below 1.0 as of the computation date of that year's rates, and this discount shall thereafter cease to be in effect for all subsequent rate years.~~

SOLVENCY RATE SCHEDULES (1-6)

Rate Group	*1*	*2*	*3*	*4*	*5*	*6*
1	*0.252632%*	*0.247375%*	*0.24211%*	*0.23684%*	*0.23158%*	*0.22632%*
2	*0.505263%*	*0.49474%*	*0.48421%*	*0.47368%*	*0.46316%*	*0.45263%*
3	*0.757895%*	*0.74211%*	*0.72632%*	*0.71053%*	*0.69474%*	*0.67895%*
4	*1.010526%*	*0.98947%*	*0.96842%*	*0.94737%*	*0.92632%*	*0.90526%*
5	*1.263158%*	*1.23684%*	*1.21053%*	*1.18421%*	*1.15789%*	*1.13158%*
6	*1.515789%*	*1.48421%*	*1.45263%*	*1.42105%*	*1.38947%*	*1.35789%*
7	*1.768421%*	*1.73158%*	*1.69474%*	*1.65789%*	*1.62105%*	*1.58421%*
8	*2.021053%*	*1.97895%*	*1.93684%*	*1.89474%*	*1.85263%*	*1.81053%*
9	*2.273684%*	*2.22632%*	*2.17895%*	*2.13158%*	*2.08421%*	*2.03684%*
10	*2.526316%*	*2.47368%*	*2.42105%*	*2.36842%*	*2.31579%*	*2.26316%*
11	*2.778947%*	*2.72105%*	*2.66316%*	*2.60526%*	*2.54737%*	*2.48947%*
12	*3.031579%*	*2.96842%*	*2.90526%*	*2.84211%*	*2.77895%*	*2.71579%*
13	*3.284211%*	*3.21579%*	*3.14737%*	*3.07895%*	*3.01053%*	*2.94211%*
14	*3.536842%*	*3.46316%*	*3.38947%*	*3.31579%*	*3.24211%*	*3.16842%*
15	*3.789474%*	*3.71053%*	*3.63158%*	*3.55263%*	*3.47368%*	*3.39474%*
16	*4.042105%*	*3.95789%*	*3.87368%*	*3.78947%*	*3.70526%*	*3.62105%*
17	*4.294737%*	*4.20526%*	*4.11579%*	*4.02632%*	*3.93684%*	*3.84737%*
18	*4.547368%*	*4.45263%*	*4.35789%*	*4.26316%*	*4.16842%*	*4.07368%*
19	*4.800000%*	*4.70000%*	*4.60000%*	*4.50000%*	*4.40000%*	*4.30000%*
20	*5.052632%*	*4.94737%*	*4.84211%*	*4.73684%*	*4.63158%*	*4.52632%*
21	*5.305263%*	*5.19474%*	*5.08421%*	*4.97368%*	*4.86316%*	*4.75263%*
22	*5.557895%*	*5.44211%*	*5.32632%*	*5.21053%*	*5.09474%*	*4.97895%*
23	*5.810526%*	*5.68947%*	*5.56842%*	*5.44737%*	*5.32632%*	*5.20526%*
24	*6.063158%*	*5.93684%*	*5.81053%*	*5.68421%*	*5.55789%*	*5.43158%*
25	*6.315789%*	*6.18421%*	*6.05263%*	*5.92105%*	*5.78947%*	*5.65789%*
26	*6.568421%*	*6.43158%*	*6.29474%*	*6.15789%*	*6.02105%*	*5.88421%*
27	*6.821053%*	*6.67895%*	*6.53684%*	*6.39474%*	*6.25263%*	*6.11053%*
N1	*7.073684%*	*6.92632%*	*6.77895%*	*6.63158%*	*6.48421%*	*6.33684%*
N2	*7.326316%*	*7.17368%*	*7.02105%*	*6.86842%*	*6.71579%*	*6.56316%*
N3	*7.578947%*	*7.42105%*	*7.26316%*	*7.10526%*	*6.94737%*	*6.78947%*
N4	*7.831579%*	*7.66842%*	*7.50526%*	*7.34211%*	*7.17895%*	*7.01579%*
N5	*8.084211%*	*7.91579%*	*7.74737%*	*7.57895%*	*7.41053%*	*7.24211%*
N6	*8.336842%*	*8.16316%*	*7.98947%*	*7.81579%*	*7.64211%*	*7.46842%*
N7	*8.589474%*	*8.41053%*	*8.23158%*	*8.05263%*	*7.87368%*	*7.69474%*
N8	*8.842105%*	*8.65789%*	*8.47368%*	*8.28947%*	*8.10526%*	*7.92105%*
N9	*9.094737%*	*8.90526%*	*8.71579%*	*8.52632%*	*8.33684%*	*8.14737%*
N10	*9.347368%*	*9.15263%*	*8.95789%*	*8.76316%*	*8.56842%*	*8.37368%*
N11	*9.600000%*	*9.40000%*	*9.20000%*	*9.00000%*	*8.80000%*	*8.60000%*

CREDIT RATE SCHEDULES (8-13)

Rate Group	*8*	*9*	*10*	*11*	*12*	*13*
1	*0.173684%*	*0.16842%*	*0.16316%*	*0.15789%*	*0.15263%*	*0.14737%*
2	*0.347368%*	*0.33684%*	*0.32632%*	*0.31579%*	*0.30526%*	*0.29474%*
3	*0.521053%*	*0.50526%*	*0.48947%*	*0.47368%*	*0.45789%*	*0.44211%*
4	*0.694737%*	*0.67368%*	*0.65263%*	*0.63158%*	*0.61053%*	*0.58947%*
5	*0.868421%*	*0.84211%*	*0.81579%*	*0.78947%*	*0.76316%*	*0.73684%*

CREDIT RATE SCHEDULES (8-13)

Rate Group	*8*	*9*	*10*	*11*	*12*	*13*
6	*1.042105%*	*1.01053%*	*0.97895%*	*0.94737%*	*0.91579%*	*0.88421%*
7	*1.215789%*	*1.17895%*	*1.14211%*	*1.10526%*	*1.06842%*	*1.03158%*
8	*1.389474%*	*1.34737%*	*1.30526%*	*1.26316%*	*1.22105%*	*1.17895%*
9	*1.563158%*	*1.51579%*	*1.46842%*	*1.42105%*	*1.37368%*	*1.32632%*
10	*1.736842%*	*1.68421%*	*1.63158%*	*1.57895%*	*1.52632%*	*1.47368%*
11	*1.910526%*	*1.85263%*	*1.79474%*	*1.73684%*	*1.67895%*	*1.62105%*
12	*2.084211%*	*2.02105%*	*1.95789%*	*1.89474%*	*1.83158%*	*1.76842%*
13	*2.257895%*	*2.18947%*	*2.12105%*	*2.05263%*	*1.98421%*	*1.91579%*
14	*2.431579%*	*2.35789%*	*2.28421%*	*2.21053%*	*2.13684%*	*2.06316%*
15	*2.605263%*	*2.52632%*	*2.44737%*	*2.36842%*	*2.28947%*	*2.21053%*
16	*2.778947%*	*2.69474%*	*2.61053%*	*2.52632%*	*2.44211%*	*2.35789%*
17	*2.952632%*	*2.86316%*	*2.77368%*	*2.68421%*	*2.59474%*	*2.50526%*
18	*3.126316%*	*3.03158%*	*2.93684%*	*2.84211%*	*2.74737%*	*2.65263%*
19	*3.300000%*	*3.20000%*	*3.10000%*	*3.00000%*	*2.90000%*	*2.80000%*
20	*3.473684%*	*3.36842%*	*3.26316%*	*3.15789%*	*3.05263%*	*2.94737%*
21	*3.647368%*	*3.53684%*	*3.42632%*	*3.31579%*	*3.20526%*	*3.09474%*
22	*3.821053%*	*3.70526%*	*3.58947%*	*3.47368%*	*3.35789%*	*3.24211%*
23	*3.994737%*	*3.87368%*	*3.75263%*	*3.63158%*	*3.51053%*	*3.38947%*
24	*4.168421%*	*4.04211%*	*3.91579%*	*3.78947%*	*3.66316%*	*3.53684%*
25	*4.342105%*	*4.21053%*	*4.07895%*	*3.94737%*	*3.81579%*	*3.68421%*
26	*4.515789%*	*4.37895%*	*4.24211%*	*4.10526%*	*3.96842%*	*3.83158%*
27	*4.689474%*	*4.54737%*	*4.40526%*	*4.26316%*	*4.12105%*	*3.97895%*
N1	*4.863158%*	*4.71579%*	*4.56842%*	*4.42105%*	*4.27368%*	*4.12632%*
N2	*5.036842%*	*4.88421%*	*4.73158%*	*4.57895%*	*4.42632%*	*4.27368%*
N3	*5.210526%*	*5.05263%*	*4.89474%*	*4.73684%*	*4.57895%*	*4.42105%*
N4	*5.384211%*	*5.22105%*	*5.05789%*	*4.89474%*	*4.73158%*	*4.56842%*
N5	*5.557895%*	*5.38947%*	*5.22105%*	*5.05263%*	*4.88421%*	*4.71579%*
N6	*5.731579%*	*5.55789%*	*5.38421%*	*5.21053%*	*5.03684%*	*4.86316%*
N7	*5.905263%*	*5.72632%*	*5.54737%*	*5.36842%*	*5.18947%*	*5.01053%*
N8	*6.078947%*	*5.89474%*	*5.71053%*	*5.52632%*	*5.34211%*	*5.15789%*
N9	*6.252632%*	*6.06316%*	*5.87368%*	*5.68421%*	*5.49474%*	*5.30526%*
N10	*6.426316%*	*6.23158%*	*6.03684%*	*5.84211%*	*5.64737%*	*5.45263%*
N11	*6.600000%*	*6.40000%*	*6.20000%*	*6.00000%*	*5.80000%*	*5.60000%*

(b) *Successor classification.* (1) (A) For the purposes of this subsection ~~(b)~~, whenever an employing unit, whether or not it is an "employing unit" within the meaning of of K.S.A. 44-703(g), and amendments thereto, becomes an employer pursuant to K.S.A. 44-703(h)(4), and amendments thereto, or is an employer at the time of acquisition and meets the definition of a "successor employer" as defined by K.S.A. 44-703(dd), and amendments thereto, and thereafter transfers its trade or business, or any portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such busi-

ness is so transferred. These experience factors consist of all contributions paid, benefit experience and annual payrolls of the predecessor employer. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred.

(B) If, following a transfer of experience under subparagraph (A), the secretary determines that a substantial purpose of the transfer or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account.

(2) A successor employer as defined by K.S.A. 44-703(h)(4) or (dd), and amendments thereto, may receive the experience rating factors of the predecessor employer if an application is made to the secretary or the secretary's designee in writing within 120 days of the date of the transfer.

(3) Whenever an employing unit, whether or not it is an "employing unit" within the meaning of K.S.A. 44-703(g), and amendments thereto, acquires or in any manner succeeds to a percentage of an employer's annual payroll which is less than 100% and intends to continue the acquired percentage as a going business, the employing unit may acquire the same percentage of the predecessor's experience factors if: (A) The predecessor employer and successor employing unit make an application in writing on the form prescribed by the secretary; (B) the application is submitted within 120 days of the date of the transfer; (C) the successor employing unit is or becomes an employer subject to this act immediately after the transfer; (D) the percentage of the experience rating factors transferred shall not be thereafter used in computing the contribution rate for the predecessor employer; and (E) the secretary finds that such transfer will not tend to defeat or obstruct the object and purposes of this act.

(4) (A) The rate of both employers in a full or partial successorship under paragraph (1)~~ of this subsection~~ shall be recalculated and made effective on the first day of the next calendar quarter following the date of transfer of trade or business.

(B) If a successor employer is determined to be qualified under paragraph (2) or (3)~~ of this subsection~~ to receive the experience rating factors of the predecessor employer, the rate assigned to the successor employer for the remainder of the contributions year shall be determined by the following:

(i) If the acquiring employing unit was an employer subject to this act prior to the date of the transfer, the rate of contribution shall be the same as the contribution rate of the acquiring employer on the date of the transfer.

(ii) If the acquiring employing unit was not an employer subject to this act prior to the date of the transfer, the successor employer shall have a newly computed rate for the remainder of the contribution year which shall be based on the transferred experience rating factors as they existed on the most recent computation date immediately preceding the date of acquisition. These experience rating factors consist of all contributions paid, benefit experience and annual payrolls.

(5) Whenever an employing unit is not an employer at the time it acquires the trade or business of an employer, the unemployment experience factors of the acquired business shall not be transferred to such employing unit if the secretary finds that such employing unit acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such employing unit shall be assigned the applicable industry rate for a "new employer" as described in subsection (a)(1). In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the secretary shall use objective factors which may include the cost of acquiring the business, whether the employer continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(6) Whenever an employer's account has been terminated as provided in K.S.A. 44-711(d) and (e), and amendments thereto, and the employer continues with employment to liquidate the business operations, that employer shall continue to be an "employer" subject to the employment security law as provided in K.S.A. 44-703(h)(8), and amendments thereto. The rate of contribution from the date of transfer to the end of the then current calendar year shall be the same as the contribution rate prior to the date of the transfer. At the completion of the then current calendar year, the rate of contribution shall be that of a "new employer" as described in subsection (a)(1).

(7) No rate computation will be permitted an employing unit succeeding to the experience of another employing unit pursuant to this section for any period subsequent to such succession except in accordance with rules and regulations adopted by the secretary. Any such regulations shall be consistent with federal requirements for additional credit allowance in section 3303 of the federal internal revenue code of 1986, and consistent with the provisions of this act.

(c) *Voluntary contributions.* Notwithstanding any other provision of the employment security law, any employer may make voluntary payments for the purpose of reducing or maintaining a reduced rate in addition to the contributions required under this section. Such voluntary payments may be made only during the thirty-day period immediately

following the date of mailing of experience rating notices for a calendar year. All such voluntary contribution payments shall be paid prior to the expiration of 120 days after the beginning of the year for which such rates are effective. The amount of voluntary contributions shall be credited to the employer's account as of the next preceding computation date and the employer's rate shall be computed accordingly. Under no circumstances shall voluntary payments be refunded in whole or in part.

(d) As used in this section, "negative account balance employer" means an eligible employer whose total benefits charged to such employer's account for all past years have exceeded all contributions paid by such employer for all such years.

(e) There is hereby established in the state treasury, separate and apart from all public moneys or funds of this state, an employment security interest assessment fund, which shall be administered by the secretary as provided in this act. Moneys in the employment security fund established by K.S.A. 44-712, and amendments thereto, and employment security interest assessment fund established by K.S.A. 44-710, and amendments thereto, shall not be invested in the pooled money investment portfolio established under K.S.A. 75-4234, and amendments thereto. Notwithstanding the provisions of K.S.A. 44-712(a), K.S.A. 44-716, K.S.A. 44-717 and K.S.A. 75-4234, and amendments thereto, or any like provision the secretary shall remit all moneys received from employers pursuant to the interest payment ~~assessment established in subsection (a)(2)(E)~~ *pursuant to law*, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the employment security interest assessment fund. All moneys in this fund which are received from employers pursuant to the interest payment ~~assessment established in subsection (a)(2)(E),~~ *assessments* shall be expended solely for the purposes and in the amounts found by the secretary necessary to pay any principal and interest due and owing the United States department of labor resulting from any advancements made to the Kansas employment security fund pursuant to the provisions of title XII of the social security act (42 U.S.C. §§ 1321 to 1324) except as may be otherwise provided under subsection ~~(a)(2)(E)~~ *(a)(2)(D)*. Notwithstanding any provision of this section, all moneys received and credited to this fund ~~pursuant to subsection (a)(2)(E),~~ shall remain part of the employment security interest assessment fund and shall be used only in accordance with the conditions specified ~~in subsection (a)(2)(E)~~.

(f) The secretary of labor shall annually prepare and submit a certification as to the solvency and adequacy of the amount credited to the state of Kansas' account in the federal employment security trust fund to the governor and the legislative coordinating council. The certification shall

be submitted on or before December 1 of each calendar year and shall be for the 12-month period ending on June 30 of that calendar year. In arriving at the certification contributions paid on or before July 31 following the 12-month period ending date of June 30 shall be considered. ~~Each certification shall be used to determine the need for any adjustment to schedule III in subsection (a)(4)(B) and to assist in preparing legislation to accomplish any such adjustment.~~

Sec. 18. K.S.A. 2020 Supp. 44-710b is hereby amended to read as follows: 44-710b. (a) *By the secretary of labor*. The secretary of labor shall promptly notify each contributing employer of its rate of contributions, each rated governmental employer of its benefit cost rate and each reimbursing employer of its benefit liability as determined for any calendar year pursuant to K.S.A. 44-710 and 44-710a, and amendments thereto, on or before November 30 of the calendar year immediately preceding the calendar year in which such rate takes effect. Such determination shall become conclusive and binding upon the employer unless, within 15 days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within 15 days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the reasons therefor. If the secretary of labor grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving the employer's rate of contributions or benefit liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to ~~subsection (c) of~~ K.S.A. 44-710*(c)*, and amendments thereto, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision or to any other proceedings under this act in which the character of such services was determined. Any such hearing conducted pursuant to this section shall be heard in the county where the contributing employer maintains its principle place of business. The hearing officer shall render a decision concerning all matters at issue in the hearing within 90 days.

(b) *(1) The secretary shall, without necessity of a request by an employer or a hearing, immediately and fully credit any contributing employer's, governmental rated employer's or reimbursing employer's account for any benefits paid upon a determination by the secretary that such benefits were an improper payment or paid to any person who received such benefits: (A) By fraud; or (B) in error where any conditions imposed by this act for the receipt of benefits were not fulfilled or where the recipient was not qualified to or disqualified from receiving such benefits.*

(2) (A) Contributing employers, rated governmental employers and reimbursing employers shall be held harmless for and shall not be required to reimburse the state for any benefits paid that have been identified by the employer and reported to and determined by the secretary as fraudulent or as an improper payment, unless the secretary determines that such benefits were received properly and not: (i) By fraud; or (ii) in error where any conditions imposed by this act for the receipt of benefits were not fulfilled or where the recipient was not qualified to or disqualified from receiving such benefits. Any such determination by the secretary shall be subject to appeal as provided by the employment security law.

(B) Reimbursing employers shall be refunded for reimbursements made to the state for any claims or benefits paid on or after March 15, 2020, that are or have been reported to the secretary and determined by the secretary as fraudulent. Amounts refunded shall become due, subject to appeal as provided by the employment security law, upon a determination by the secretary, as provided by subparagraph (A), that the benefits were paid properly and not by fraud or in error.

(C) For the time period of March 15, 2020, through December 31, 2022, identifications of fraud reported to the secretary pursuant to subparagraphs (A) and (B) shall not be subject to any time limitation for disputing a claim or for appeal pursuant to K.S.A. 44-710, and amendments thereto, or pursuant to any other provision of the employment security law.

(3) The secretary shall review all reimbursing employer accounts and shall apply credit for any benefits previously paid by fraud or in error, as provided by paragraph (1), that have been charged against a reimbursing employer's account and have not yet been recovered through normal recovery efforts.

(c) Judicial review. Any action of the secretary upon an employer's timely request for a review and redetermination of its rate of contributions or benefit liability, in accordance with subsection (a), is subject to review in accordance with the Kansas judicial review act. Any action for such review shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under ~~subsection (i) of~~ K.S.A. 44-709*(i)*, and amendments thereto, and the workmen's compensation act.

~~(c)~~*(d) Periodic notification of benefits charged*. The secretary of labor may provide by rules and regulations for periodic notification to employers of benefits paid and chargeable to their accounts or of the status of such accounts, and any such notification, in the absence of an application for redetermination filed in such manner and within such period as the secretary of labor may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redeterminations, made after

notice and opportunity for hearing, and the secretary's findings of facts in connection therewith may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of contributions of any employer for any calendar year and shall be entitled to the same finality as is provided in this subsection with respect to the findings of fact made by the secretary of labor in proceedings to redetermine the contribution rate of an employer. The review or any other proceedings relating thereto as provided for in this section may be heard by any duly authorized employee of the secretary of labor and such action shall have the same effect as if heard by the secretary.

(e) The secretary shall review the information reported by the United States department of labor pursuant to the payment integrity information act of 2019, public law 116-117, and any other relevant information available from the United States department of labor and any relevant information held by the department of labor available to the secretary regarding improper payment amounts for the state of Kansas for the period beginning on March 15, 2020, through December 31, 2022.

(f) Any federal unemployment insurance benefit program established as a result of COVID-19 or any pandemic shall not be continued after the ending date of the federal program through the use of Kansas state employment security fund contributions made by Kansas employers.

Sec. 19. K.S.A. 2020 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~~ *through* 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*: (1)* Take all appropriate steps to reduce and prevent unemployment;~~to~~ *(2)* encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance;~~to~~ *(3)* 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~~ *(4)* promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and *(5)* 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 officials or the agents or contractors of a public official in the performance of their 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 prec-

edential 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. Any individual who violates any provisions of this subsection, 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. *Nothing in this subsection shall be construed to prohibit disclosure otherwise permissible under 20 C.F.R. part 603.5.*

(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~~ *through* 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. 20. K.S.A. 2020 Supp. 44-719 is hereby amended to read as follows: 44-719. (a) *(1) Except as provided in subsection (a)(2),* 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. 2020 Supp. 21-5801, and amendments thereto.

(2) Any violation of subsection (a)(1) shall be a severity level 5, nonperson felony if such person:

(A) Had no basis to obtain or increase any benefit or other payment under this act because the person failed to engage in employment as defined in K.S.A. 44-703, and amendments thereto, and failed to perform any services for wages within this state not within the meaning of employment as defined in K.S.A. 44-703, and amendments thereto;

(B) knowingly made the false statement or representation in such a manner that such statement or representation purports to have been made by another person, either real or fictitious, and if a real person without the authority of such person; and

(C) communicated or caused to be communicated a false statement or representation on three or more occasions within a 30-day period that purported to be from different other persons, as provided by paragraph (2)(B), to the department of labor.

(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 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 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 notify the attorney general and if, in the opinion of the attorney general, the acts or practices involved 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. 2020 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. 21. K.S.A. 2020 Supp. 44-757 is hereby amended to read as follows: 44-757. *Shared work unemployment compensation program.* (a) As used in this section:

(1) "Affected unit" means a specified department, shift or other unit of two or more employees that is designated by an employer to participate in a shared work plan.

(2) "Fringe benefit" means health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer.

(3) "Fund" has the meaning ascribed thereto by K.S.A. 44-703(k), and amendments thereto.

(4) "Normal weekly hours of work" means the lesser of 40 hours or the average obtained by dividing the total number of hours worked per week during the preceding twelve-week period by the number 12.

(5) "Participating employee" means an employee who works a reduced number of hours under a shared work plan *initiated by their employer and approved by the secretary*.

(6) "Participating employer" means an employer who has *applied to and been approved by the secretary for* a shared work plan *that is* in effect.

(7) "Secretary" means the secretary of labor or the secretary's designee.

(8) "Shared work benefit" means an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan.

(9) "Shared work plan" means a *short-term compensation* program ~~for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work~~.

(10) ~~"Shared work unemployment compensation program" means a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages~~*"Short-term compensation program" means a shared work plan program designed to provide an alternative to layoffs for employers experiencing a reduction in available work. A "short-term compensation program" preserves employees' jobs and an employer's trained workforce during times of lowered economic activity by allowing an employer to reduce hours of work for employees rather than laying off some employees while others continue to work full time. Under a "short-term compensation program," employees experiencing a reduction in hours are allowed to collect a pro-rata share of their unemployment compensation benefits to replace a portion of the employee's lost wages*.

(b) The secretary shall establish a voluntary ~~shared work unemployment~~ *short-term* compensation program as provided by this section. The secretary may adopt rules and regulations and establish procedures necessary to administer the ~~shared work unemployment~~ *short-term* compensation program.

(c) *The secretary shall create and manage an annual promotional campaign for the short-term compensation program to encourage and improve business participation. The promotional campaign shall include the following elements:*

(A) Engagement in proactive educational communications with other state agencies and stakeholders, including the governor's office, legislators, workforce investment boards, labor unions and local, regional or state chambers of commerce;

(B) a dedicated department of labor employee or team to efficiently and timely answer employer's questions about the short-term compensation program;

(C) presentation materials that provide consistency of messaging about the benefits of using a short-term compensation program to provide stakeholders for distribution to employer groups, workforce investment boards or other interested parties;

(D) proactive engagement with employers experiencing economic stress or layoffs to share the benefits of the short-term compensation program and to ensure such employers are aware of the program; and

(E) an automated application, claims and weekly certification process for participating employers designed to facilitate participation, reduce an employer's administrative burden and promote the use of the short-term compensation program.

(d) An employer who wishes to participate in the ~~shared work unemployment~~ *short-term* compensation program must submit a written shared work plan to the secretary for the secretary's approval. As a condition for approval, a participating employer must agree to furnish the secretary with reports relating to the operation of the shared work plan as requested by the secretary. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the secretary and shall report the findings to the secretary.

~~(d)~~*(e)* The secretary may approve a shared work plan if:

(1) The shared work plan applies to and identifies a specific affected unit;

(2) the employees in the affected unit are identified by name and social security number;

(3) the shared work plan reduces the normal weekly hours of work for an employee, including regular part-time employees, in the affected unit by not less than ~~20%~~ *10%* and not more than ~~40%~~ *50%*;

(4) the shared work plan applies to at least 10% of the employees in the affected unit;

(5) the shared work plan describes the manner that the participating employer treats the fringe benefits of each employee in the affected unit and the employer certifies that if the employer provides health benefits and retirement benefits under a defined benefit plan, as defined in 26 U.S.C. § 414(j), or contributions under a defined contribution plan, as defined in 26 U.S.C. § 414(i), to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the ~~shared work~~ *short-term* compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the ~~shared work~~ *short-term compensation* program;

(6) the employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of layoffs that would affect at least 10% of the employees in the affected unit and that would result in an equivalent reduction in work hours;

(7) the employer has filed all reports required to be filed under the employment security law for all past and current periods and has paid all contributions, benefit cost payments, or if a reimbursing employer has made all payments in lieu of contributions due for all past and current periods;

(8) (A) a contributing employer must be eligible for a rate computation under K.S.A. 44-710a(a)(2), and amendments thereto, and the contributing employer, as determined by the secretary, does not adversely impact the state's eligibility under section 2108 of the federal CARES act, public law 116-136;

(B) *if section 2108 of the federal CARES act, public law 116-136, is no longer in effect, a contributing employer eligible for a rate computation under K.S.A. 44-710(a)(2), and amendments thereto, that is a negative account employer as defined by K.S.A. 44-710a(d), and amendments thereto, may only be approved for a shared work application if the negative account employer's most recent calculated reserve ratio has improved from the previous reporting year's reserve ratio;*

(C) a rated governmental employer must be eligible for a rate computation under K.S.A. 44-710d(g), and amendments thereto;

(9) eligible employees may participate, as appropriate, in training, including without limitation, employer-sponsored training or worker training funded under the workforce investment act of 1998, to enhance job skills if such program has been approved by the state of Kansas;

(10) the employer includes a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced together with an estimate of the number of layoffs that would have occurred absent the ability to participate in shared work compensation and such other information as the secretary of labor determines is appropriate; and

(11) the terms of the employer's written plan and implementation are consistent with employer obligations under applicable federal and Kansas laws.

~~(e)~~*(f)* If any of the employees who participate in a shared work plan under this section are covered by a collective bargaining agreement, the shared work plan must be approved in writing by the collective bargaining agent.

~~(f)~~*(g)* A shared work plan may not be implemented to subsidize seasonal employers during the off-season.

~~(g)~~*(h)* The secretary shall approve or deny a shared work plan no later than the 30th day after the day the shared work plan is received by the sec-

retary. The secretary shall approve or deny a shared work plan in writing. If the secretary denies a shared work plan, the secretary shall notify the employer of the reasons for the denial.

~~(h)~~*(i)* A shared work plan is effective on the date it is approved by the secretary, except for good cause a shared work plan may be effective at any time within a period of 14 days prior to the date such plan is approved by the secretary. The shared work plan expires on the last day of the 12th full calendar month after the effective date of the shared work plan.

~~(i)~~*(j)* An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as approved by the secretary. The employer must report the changes made to the shared work plan in writing to the secretary before implementing the changes. If the original shared work plan is substantially modified, the secretary shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection (d). The approval of a modified shared work plan does not affect the expiration date originally set for that shared work plan. If substantial modifications cause the shared work plan to fail to meet the requirements for approval, the secretary shall deny approval to the modifications as provided by subsection (g).

~~(j)~~*(k)* Notwithstanding any other provisions of the employment security law, an individual is unemployed and is eligible for shared work benefits in any week in which the individual, as an employee in an affected unit, works for less than the individual's normal weekly hours of work in accordance with an approved shared work plan in effect for that week. The secretary may not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of the employment security law that relates to availability for work, active search for work or refusal to apply for or accept work with an employer other than the participating employer.

~~(k)~~*(l)* An individual is eligible to receive shared work benefits with respect to any week in which the secretary finds that:

(1) *The employee is determined to be eligible for unemployment compensation, except that while receiving shared work benefits, an employee shall not be required to meet work availability or work search requirements but shall be required to be available for the employee's normal work week;*

(2) the individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

~~(2)~~*(3)* the individual is able to work and is available for additional hours of work or full-time work with the participating employer;

~~(3)~~*(4)* the individual's normal weekly hours of work have been reduced by at least ~~20%~~ *10%* but not more than ~~40%~~ *50%*, with a corresponding reduction in wages; and

~~(4)~~*(5)* the individual's normal weekly hours of work and wages have been reduced as described in subsection (k)~~(3)~~*(4)* for a waiting period of one week that occurs within the period the shared work plan is in effect, which period includes the week for which the individual is claiming shared work benefits.

~~(l)~~*(m)* The secretary shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of reduction of the individual's hours as set forth in the employer's shared work plan. If the shared benefit amount is not a multiple of $1, the secretary shall reduce the amount to the next lowest multiple of $1. All shared work benefits under this section shall be payable from the fund.

~~(m)~~*(n)* An individual may not receive shared work benefits and regular unemployment compensation benefits in an amount that exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided by K.S.A. 44-704(g), and amendments thereto.

~~(n)~~*(o)* An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under K.S.A. 44-704a and 44-704b, and amendments thereto, and is entitled to receive extended benefits under such statutes if the individual is otherwise eligible under such statutes.

~~(o)~~*(p)* The secretary may terminate a shared work plan for good cause if the secretary determines that the shared work plan is not being executed according to the terms and intent of the ~~shared work unemployment~~ *short-term* compensation program.

~~(p)~~*(q)* Notwithstanding any other provisions of this section, an individual shall not be eligible to receive shared work benefits for more than ~~26~~ 52 calendar weeks during the 12-month period of the shared work plan~~, except that two weeks of additional benefits shall be payable to claimants who exhaust regular benefits and any benefits under any other federal or state extended benefits program during the period July 1, 2003 through June 30, 2004~~. No week shall be counted as a week for which an individual is eligible for shared work benefits for the purposes of this section unless the week occurs within the 12-month period of the shared work plan.

~~(q)~~*(r)* No shared work benefit payment shall be made under any shared work plan or this section for any week that commences before April 1, 1989.

~~(r)~~*(s)* This section shall be construed as part of the employment security law.

Sec. 22. K.S.A. 44-758 is hereby amended to read as follows: 44-758. (a) Any employer or any individual, organization, partnership, corporation or other legal entity ~~which~~ *that* is a lessor employing unit, as defined by ~~subsection (ff) of~~ K.S.A. 44-703*(ff)*, and amendments thereto, shall be liable for contributions on wages paid by the lessor employing unit to individuals performing services for client lessees. ~~For the purposes of the employment security law, no client lessee shall lease an individual proprietor, partner or corporate officer, who is a shareholder or a member of the board of directors of the corporation, from any lessor employing unit.~~ Any client lessee shall be jointly and severally liable for any unpaid contributions, interest and penalties due under this law from any lessor employing unit attributable to wages for services performed for the client lessee by employees leased to the client lessee. The lessor employing unit shall keep separate records and submit separate quarterly contributions and wage reports for each client lessee.

(b) Any lessor employing unit ~~which~~ *that* is currently engaged in the business of leasing employees to client lessees shall comply with the provisions of subsection (a) prior to October 1, 1990.

(c) The provisions of this section shall not be applicable to private employment agencies ~~which~~ *that* provide temporary workers to employers on a temporary help basis, provided the private employment agencies are liable as employers for the payment of contributions on wages paid to temporary workers so employed.

(d) This section shall be construed as part of the employment security law.

Sec. 23. K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-705, 44-706, 44-709, 44-710, 44-710a, 44-710b, 44-714, 44-719 and 44-757 are hereby repealed.

Sec. 24. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 26, 2021.

Published in the *Kansas Register* May 13, 2021.

CHAPTER 93

SENATE BILL No. 50

AN ACT concerning taxation; relating to sales and compensating use tax; requiring the collection and remittance for sales, compensating use and transient guest taxes and prepaid wireless 911 fees made on marketplace facilitator platforms; removing click-through nexus provisions; relating to income tax; providing for addition and subtraction modifications for the treatment of global intangible low-taxed income, business interest, capital contributions, FDIC premiums and business meals; expanding the expense deduction for income taxpayers and calculating the deduction amount; providing the ability to elect to itemize for individuals; exemption of unemployment compensation income attributable as a result of identity fraud; removing the line for reporting compensating use tax from individual tax returns; extending the dates when corporate tax returns are required to be filed; increasing the Kansas standard deduction; providing for an extension of the corporate net operating loss carryforward period; amending K.S.A. 79-3221, 79-3221o, 79-32,117, 79-32,119, 79-32,120, 79-32,138, 79-32,143, 79-32,143a and 79-3702 and repealing the existing sections.

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

New Section 1. As used in sections 1 through 4, and amendments thereto:

(a) "Department" means the department of revenue.

(b) (1) "Marketplace facilitator" means a person, including any affiliate of the person, that:

(A) Contracts or otherwise agrees with marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the marketplace seller's products or rooms, lodgings or accommodations through a physical or electronic marketplace operated, owned or otherwise controlled by the person; and

(B) either directly or indirectly through contracts, agreements or other arrangements with third parties, collects the payment from the purchaser and transmits all or part of the payment to the marketplace seller.

(2) A "marketplace facilitator" includes a person that provides a platform through which unaffiliated third parties offer to rent to and collect consideration from occupants for rental, for a period of less than 29 consecutive days, of rooms, lodgings, accommodations, homes, apartments, cabins or residential dwelling units that are intended to be used as a room, lodging or sleeping accommodation by one person or by two or more persons maintaining a common household, to the exclusion of all others. A person is not a marketplace facilitator with respect to the sale or charges for rooms, lodgings or sleeping accommodations, if such rooms, lodgings or sleeping accommodations are provided by a hotel as described in K.S.A. 36-501, and amendments thereto, and the hotel provides the rooms, lodgings or sleeping accommodations for occupancy under a brand belonging to such person or the person facilitates sales or charges on behalf of the hotel.

(3) A "marketplace facilitator" does not include:

(A) A platform or forum that exclusively provides advertising services, including listing products for sale, so long as the advertising service platform or forum does not also engage directly or indirectly through one or more affiliated persons in the activities described in section 1(b)(1)(A) or (b)(1)(B), and amendments thereto;

(B) a person whose principal activity with respect to marketplace sales is to provide payment processing services between two parties; or

(C) a derivatives clearing organization, designated contract market, foreign board of trade or swap execution facility, registered with the commodity futures trading commission, and any clearing members, futures commission merchants or brokers when using the services of the commodity futures trading commission.

(c) "Marketplace seller" means a seller that makes sales through any physical or electronic marketplace operated, owned or controlled by a marketplace facilitator.

(d) "Tax" means:

(1) The retailers' sales tax imposed under K.S.A. 79-3603, and amendments thereto;

(2) the compensating use tax imposed under K.S.A. 79-3703, and amendments thereto; or

(3) the transient guest tax imposed under K.S.A. 12-1693 or 12-1697, and amendments thereto, or any applicable city or county resolution or ordinance.

New Sec. 2. (a) (1) Any marketplace facilitator selling or facilitating the sale of property or services subject to tax in this state shall be required to collect and remit such taxes and follow all applicable procedures and requirements provided by law for the collection and remittance of such taxes. A marketplace facilitator shall only be required to collect and remit such taxes if the following criteria are satisfied during the current or immediately preceding calendar year:

(A) The marketplace facilitator makes sales of property or services otherwise subject to tax in the state in an amount exceeding $100,000; or

(B) if a marketplace facilitator makes or facilitates the sale of property or services subject to tax in the state, on its own behalf or on behalf of one or more marketplace sellers, for delivery into this state in an amount exceeding $100,000.

(2) For any marketplace facilitator who satisfies the provisions of this subsection for sales in the current calendar year for the first time, such marketplace facilitator shall be required to collect and remit the tax on any sales in excess of $100,000 of cumulative gross receipts from sales in the current calendar year for delivery into this state.

(b) The department may grant a waiver from the requirements of this section if a marketplace facilitator demonstrates, to the satisfaction of the

department, that substantially all of its marketplace sellers already are collecting and remitting taxes to the department. If such waiver is granted, the taxes levied shall be collectible from the marketplace seller. The department shall promulgate rules and regulations that establish:

(1) The criteria for obtaining a waiver pursuant to this section;

(2) the process and procedure for a marketplace facilitator to apply for a waiver; and

(3) the process for providing notice to an affected marketplace facilitator and marketplace seller of a waiver obtained pursuant to this subsection.

(c) Nothing in this section shall prohibit the marketplace facilitator and the marketplace seller from contractually agreeing to have the marketplace seller collect and remit all applicable taxes and fees if the marketplace seller:

(1) Has annual gross sales in the United States over $1,000,000,000, including the gross sales of any related entities, and, in the case of franchised entities, including the combined sales of all franchisees of a single franchisor;

(2) provides evidence to the marketplace facilitator that the marketplace seller is registered pursuant to K.S.A. 79-3608, and amendments thereto; and

(3) notifies the department in the manner prescribed by the department that the marketplace seller will collect and remit all applicable taxes and fees on sales through the marketplace and is liable for failure to collect or remit applicable taxes and fees on such sales.

(d) Prior to April 1, 2022, if a marketplace facilitator sells or facilitates the sale of prepaid wireless service, the provider of such prepaid wireless service is not liable for collection or payment of the prepaid wireless 911 fees imposed under K.S.A. 12-5371, and amendments thereto, unless such prepaid wireless provider is a marketplace seller collecting taxes under the provisions of a waiver granted in subsection (b).

(e) On and after April 1, 2022, any marketplace facilitator that is obligated to collect the taxes imposed under this act, shall also collect and remit to the department applicable prepaid wireless 911 fees imposed under K.S.A. 12-5371, and amendments thereto.

New Sec. 3. (a) Except as provided in section 2(b) or (c), and amendments thereto, a marketplace facilitator doing business in this state under section 2, and amendments thereto, shall collect and remit the taxes on all taxable sales made by the marketplace facilitator or facilitated for marketplace sellers to customers in this state, regardless of whether the marketplace seller for whom sales are facilitated has registered to collect taxes or would have been required to collect taxes if the sale had not been facilitated by the marketplace facilitator. A marketplace facilitator has the

same rights and duties as a seller to collect and remit all such taxes. Marketplace facilitators and marketplace sellers may enter into agreements with each other regarding fulfillment of the requirements of this section, but the marketplace facilitator remains the party that is liable to the state for fulfilling such requirements.

(b) A marketplace facilitator shall either:

(1) Report the tax imposed pursuant to subsection (a) separately from any taxes collected on taxable sales made directly by the marketplace facilitator, or affiliates of the marketplace facilitator, to customers in this state using a separate form to be published by the department; or

(2) report the tax imposed pursuant to subsection (a) combined with any taxes collected on taxable sales made directly by the marketplace facilitator, or affiliates of the marketplace facilitator.

(c) No class action may be brought against a marketplace facilitator in any court of this state on behalf of customers arising from or in any way related to an overpayment of tax collected on sales facilitated by the marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim. Nothing in this subsection affects a customer's right to seek a refund as provided under K.S.A. 79-3650, and amendments thereto.

(d) Nothing in this section affects the obligation of any consumer to remit the tax for any taxable transaction for which a marketplace facilitator or seller does not collect and remit the tax.

(e) The department shall solely audit the marketplace facilitator for sales made by marketplace sellers but facilitated by the marketplace facilitator, except with respect to transactions that are subject to section 2(b) or (c), and amendments thereto. The department shall not audit or otherwise assess tax against marketplace sellers for sales facilitated by a marketplace facilitator except to the extent that the marketplace facilitator seeks relief under subsection (f) or with respect to transactions that are subject to section 2(b) or (c), and amendments thereto.

(f) A marketplace facilitator shall be relieved of liability under this section for failure to collect and remit the correct amount of tax to the extent that the error was due to incorrect or insufficient information on the nature of the product or service given to the marketplace facilitator by the marketplace seller, if the marketplace facilitator can demonstrate a reasonable effort to obtain correct and sufficient information from the marketplace seller. This subsection shall not apply if the marketplace facilitator and the marketplace seller are under common ownership and control.

(g) The department may waive penalties and interest if a marketplace facilitator seeks liability relief and the department determines that reasonable cause exists.

(h) A marketplace facilitator shall be relieved of liability under this section if it can prove, to the satisfaction of the department, that the tax levied on a sale facilitated by the marketplace facilitator was paid to the department by the marketplace seller.

New Sec. 4. A marketplace facilitator shall not be required to collect and remit any taxes from sales occurring prior to July 1, 2021.

New Sec. 5. Notwithstanding any other provision of law, for any individual whose identity was fraudulently used to secure unemployment compensation, if such individual never received such compensation, such compensation shall not be considered gross income and shall not be taxable for Kansas income tax purposes after determination by the department of labor that the benefits were obtained fraudulently by another individual.

Sec. 6. K.S.A. 79-3221 is hereby amended to read as follows: 79-3221. (a) All returns required by this act shall be made as nearly as practical in the same form as the corresponding form of income tax return by the United States. Unless another identifying number has been assigned to an individual by the internal revenue service for purposes of filing such individual's federal income tax return, the social security number issued to an individual, the individual's spouse, and all dependents of such individual for purposes of section 205(c)(2)(A) of the social security act shall be used as the identifying number and included on the return when filing such return.

(b) All returns shall be filed in the office of the director of taxation on or before the 15th day of the fourth month following the close of the taxable year, except as provided in subsection (c) ~~hereof~~. Tentative returns may be filed before the close of the taxable year and the estimated tax computed on such return, paid, but no interest will be paid on any overpayment of tax liability, computed on such tentative return.

(c) *(1)* The director of taxation may grant a reasonable extension of time for filing returns in accordance with rules and regulations of the secretary of revenue. Whenever any such extension of time to file is requested by a taxpayer and granted by the director with respect to any tax year commencing after December 31, 1992, no penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if 90% of the liability is paid on or before the original due date.

(2) For any tax year commencing after December 31, 2019, any taxpayer filing a corporate tax return shall file the return in the office of the director of taxation:

(A) Not later than one month after the due date established under the federal internal revenue code, including any applicable extensions granted by the internal revenue service; and

(B) no penalty authorized by K.S.A. 79-3228, and amendments thereto, shall be imposed if the return is filed within one month after receiving an extension to file a tax return with the internal revenue service. The taxpayer shall not be required to file an extension request with the director pursuant to this subparagraph.

(d) In the case of an individual serving in the armed forces of the United States, or serving in support of such armed forces, in an area designated by the president of the United States by executive order as a "combat zone" as defined under 26 U.S.C. § 112 at any time during the period designated by the president by executive order as the period of combatant activities in such zone for the purposes of such section, or hospitalized as a result of injury received or sickness incurred while serving in such an area during such time, the period of service in such area, plus the period of continuous qualified hospitalization attributable to such injury or sickness, and the next 180 days thereafter, shall be disregarded in determining, under article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, in respect to any tax liability, including any interest, penalty, additional amount, or addition to the tax, of such individual:

(1) Whether any of the following acts was performed within the time prescribed therefor: (A) Filing any return of income tax; (B) payment of any income tax or installment thereof; (C) filing a notice of appeal with the director of taxation or the state board of tax appeals for redetermination of a deficiency or for a review of a decision rendered by either the director or the state board of tax appeals; (D) allowance of a credit or refund of any income tax; (E) filing a claim for credit or refund of any income tax; (F) bringing suit upon any such claim for credit or refund; (G) assessment of any income tax; (H) giving or making any notice or demand for the payment of any income tax, or with respect to any liability to the state of Kansas in respect of any income tax; (I) collection, by the director of taxation or the director's agent, by warrant, levy or otherwise, of the amount of any liability in respect to any income tax; (J) bringing suit by the state of Kansas, or any officer on its behalf, in respect to any liability in respect of any income tax; and (K) any other act required or permitted under the Kansas income tax act specified in rules and regulations adopted by the secretary of revenue under this section;

(2) the amount of any credit or refund.

(e) (1) Subsection (d) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

(2) If an individual is entitled to the benefits of subsection (d) with respect to any return and such return is timely filed, determined after the application of ~~subsection (d), subsections (e)(5) and (e)(7) of~~ K.S.A. 79-32,105*(d), (e)(5) and (e)(7)*, and amendments thereto, shall not apply.

(f) The provisions of subsections (d) through (j) shall apply to the spouse of any individual entitled to the benefits of subsection (d). Except in the case of the combat zone designated for purposes of the Vietnam conflict, this subsection shall not cause subsections (d) through (j) to apply for any spouse for any taxable year beginning more than two years after the date designated under 26 U.S.C. § 112, and amendments thereto, as the date of termination of combatant activities in a combat zone.

(g) The period of service in the area referred to in subsection (d) shall include the period during which an individual entitled to benefits under subsection (d) is in a missing status, within the meaning of 26 U.S.C. § 6013(f)(3).

(h) (1) Notwithstanding the provisions of subsection (d), any action or proceeding authorized by K.S.A. 79-3229, and amendments thereto, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun or prosecuted. In any other case in which the secretary determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (d) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this subsection the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (d). In any case to which this ~~subsections~~ *subsection* relates, if the secretary is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the secretary is in an area for which United States post offices under instructions of the postmaster general are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) The assessment or collection of any tax under the provisions of article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or any action or proceeding by or on behalf of the state in connection therewith, may be made, taken, begun or prosecuted in accordance with law, without regard to the provisions of subsection (d), unless prior to such assessment, collection, action or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (d).

(i) (1) Any individual who performed Desert Shield services, and the spouse of such individual, shall be entitled to the benefits of subsections (d) through (j) in the same manner as if such services were services referred to in subsection (d).

(2) For purposes of this subsection, the term "Desert Shield services" means any services in the armed forces of the United States or in support of such armed forces if:

(A) Such services are performed in the area designated by the president as the "Persian Gulf Desert Shield area"; and

(B) such services are performed during the period beginning on August 2, 1990, and ending on the date on which any portion of the area referred to in subsection (i)(2)(A) is designated by the president as a combat zone pursuant to 26 U.S.C. § 112.

(j) For purposes of subsection (d), the term "qualified hospitalization" means:

(1) Any hospitalization outside the United States; and

(2) any hospitalization inside the United States, except that not more than five years of hospitalization may be taken into account under this subsection. This subsection shall not apply for purposes of applying subsections (d) through (j) with respect to the spouse of an individual entitled to the benefits of subsection (d).

Sec. 7. K.S.A. 79-3221o is hereby amended to read as follows: 79-3221o. ~~(a) In order to raise awareness of liabilities of use taxes levied in article 37 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for purchases of tangible personal property made outside this state to be consumed within this state, and to increase compliance with such provisions of law,~~ The director of taxation is hereby directed to *not* include a line for the remittance of sales tax on out-of-state and internet purchases ~~where the tax was not paid~~ on individual tax returns for tax years beginning on or after ~~July~~ *January* 1, ~~2016~~ *2022*.

~~(b) The director shall include the following information in the income tax form instructions:~~

~~(1) An explanation of an individual's obligation to pay use tax on items purchased from mail order, internet or other sellers that do not collect state and local sales and use taxes on the items; and~~

~~(2) a method to help an individual determine the amount of use tax the individual owes. The method may include a table that gives the average amounts of use tax payable by taxpayers in various income ranges.~~

~~(c) No penalties or interest shall be applied with respect to any taxes remitted pursuant to the provisions of this section.~~

Sec. 8. K.S.A. 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 in-

come, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 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. 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. 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. 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. 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. 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. 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. 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. 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 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 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 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 taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for health insur-

ance 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 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 expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2020 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. 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. 2020 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. 72-99a07, and amendments thereto, and is also claimed as an itemized deduction for federal income tax purposes.

(xxvii) For all taxable years commencing after December 31, 2020, the amount deducted by reason of a carryforward of disallowed business interest pursuant to section 163(j) of the federal internal revenue code of 1986, as in effect on January 1, 2018.

(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 adjust-

ed 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. § 280C. 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. § 280C.

(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. 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 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, 2017, the cumulative amounts not exceeding $3,000, or $6,000 for a married couple filing a joint return, for each designated beneficiary that are contributed to: (1) 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; or (2) an achieving a better life experience (ABLE) account established under the Kansas ABLE savings program or a qualified ABLE program established and maintained by another state or agency or instrumentality thereof pursuant to section 529A of the internal revenue code of 1986, as amended, for the purpose of saving private funds to support an individual with a disability. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and amendments thereto, and the provisions of such sections 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 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 taxpay-

er'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 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 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.

(xxv) For all taxable years commencing after December 31, 2020, 100% of global intangible low-taxed income under section 951A of the federal internal revenue code of 1986, before any deductions allowed under section 250(a)(1)(B) of such code.

(xxvi) For all taxable years commencing after December 31, 2020, the amount disallowed as a deduction pursuant to section 163(j) of the federal internal revenue code of 1986, as in effect on January 1, 2018.

(xxvii) For taxable years commencing after December 31, 2020, the amount disallowed as a deduction pursuant to section 274 of the federal internal revenue code of 1986 for meal expenditures shall be allowed to the extent such expense was deductible for determining federal income tax and was allowed and in effect on December 31, 2017.

(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. 9. K.S.A. 79-32,119 is hereby amended to read as follows: 79-32,119. *(a)* The Kansas standard deduction of an individual, including a husband and wife who are either both residents or who file a joint return as if both were residents, shall be equal to the sum of the standard deduction amount allowed pursuant to this section, and the additional standard deduction amount allowed pursuant to this section for each such deduction allowable to such individual or to such husband and wife under the federal internal revenue code. ~~For tax year 1998 through tax year 2012, the standard deduction amount shall be as follows: Single individual filing status, $3,000; married filing status, $6,000; and head of household filing status, $4,500.~~

(b) For tax year 1998, and all tax years thereafter, the additional standard deduction amount shall be as follows: Single individual and head of household filing status, $850; and married filing status, $700.

(c) (1) For tax year 2013~~, and all tax years thereafter~~ *through tax year 2020*, the standard deduction amount of an individual, including husband and wife who are either both residents or who file a joint return as if both were residents, shall be as follows: Single individual filing status, $3,000; married filing status, $7,500; and head of household filing status, $5,500.

(2) For tax year 2021, and all tax years thereafter, the standard deduction amount of an individual, including husband and wife who are either both residents or who file a joint return as if both were residents, shall be as follows: Single individual filing status, $3,500; married filing status, $8,000; and head of household filing status, $6,000.

(d) For purposes of ~~the foregoing~~ *this section*, the federal standard deduction allowable to a husband and wife filing separate Kansas income tax returns shall be determined on the basis that separate federal returns were filed, and the federal standard deduction of a husband and wife filing a joint Kansas income tax return shall be determined on the basis that a joint federal income tax return was filed.

Sec. 10. K.S.A. 79-32,120 is hereby amended to read as follows: 79-32,120. (a) (1) *(A) For all tax years prior to tax year 2021,* 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.

(B) For tax year 2021, and all tax years thereafter, an individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction, regardless of whether or not such individual's federal taxable income is determined by itemizing deductions from such individual's federal adjusted gross income.

(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 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 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)~~*(3)* 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)~~*(4)* 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)~~*(5)* 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. 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. 11. K.S.A. 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*, except that in determination of such federal taxable income for all taxable years commencing after December 31, 2020, section 118 of the federal internal revenue code of 1986 shall be applied as in effect on December 21, 2017*.

(b) There shall be added to federal taxable income:

(i) The same modifications as are set forth in 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. 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. 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. 2020 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. 72-4357, and amendments thereto;~~ and~~

(vi) the federal net operating loss deduction*; and*

(vii) for all taxable years commencing after December 31, 2020, the amount of any deduction claimed under section 250(a)(1)(B) of the federal internal revenue code of 1986.

(c) There shall be subtracted from federal taxable income:

(i) The same modifications as are set forth in 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. 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. *As used in this paragraph, "dividends" includes amounts included in income under section 965 of the federal internal revenue code of 1986, net of the deduction permitted by section 965(c) of the federal internal revenue code of 1986. For all taxable years commencing after December 31, 2020, this paragraph does not apply to amounts excluded from income pursuant to K.S.A. 79-32,117(c)(xxv), and amendments thereto, or amounts added back pursuant to K.S.A. 79-32,138(b)(vii), and amendments thereto; and*

(vi) for all taxable years commencing after December 31, 2020, the amount disallowed as a deduction pursuant to section 162(r) of the federal internal revenue code of 1986, as in effect on January 1, 2018.

(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.~~ *through* 79-3293, ~~inclusive,~~ and amendments thereto, plus any refund of federal income tax as determined under K.S.A. 79-32,117(b)(iv), and amendments thereto, and minus the deduction for federal in-

come 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) and subtraction modifications as provided for in subsection (c)(iii) as those subsections existed prior to their amendment by this act, shall be required to be made for such taxable year.

Sec. 12. K.S.A. 79-32,143 is hereby amended to read as follows: 79-32,143. (a) *(1) (A)* For net operating losses incurred in taxable years ~~beginning after December 31, 1987,~~ *prior to January 1, 2018,* a net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code, except that such net operating loss may only be carried forward to each of the 10 taxable years following the taxable year of the net operating loss.

(B) For net operating losses incurred in taxable years beginning after December 31, 2017, a net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code, except that such net operating loss deduction may only be carried forward.

(2) For net operating farm losses, as defined by ~~subsection (i) of~~ section 172 of the federal internal revenue code, incurred in taxable years beginning after December 31, 1999, a net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code except that such net operating loss may be carried forward to each of the 10 taxable years following the taxable year of the net operating loss.

(3) The amount of the net operating loss that may be carried back or forward for Kansas income tax purposes shall be that portion of the federal net operating loss allocated to Kansas under this act in the taxable year that the net operating loss is sustained.

(b) The amount of the loss to be carried back or forward will be the federal net operating loss after: (1) All modifications required under this act applicable to the net loss in the year the loss was incurred; and (2) after apportionment as to source in the case of corporations, nonresident individuals for losses incurred in taxable years beginning prior to January 1, 1978, and nonresident estates and trusts in the same manner that income for such corporations, nonresident individuals, estates and trusts is required to be apportioned.

(c) If a net operating loss was incurred in a taxable year beginning prior to January 1, 1988, the amount of the net operating loss that may be carried back and carried forward and the period for which it may be carried back and carried forward shall be determined under the provisions of the Kansas income tax laws ~~which~~ *that* were in effect during the year that such net operating loss was incurred.

(d) If any portion of a net operating loss described in subsections (a) and (b) is not utilized prior to the final year of the carryforward period provided in subsection (a), a refund shall be allowable in such final year in an amount equal to the refund which would have been allowable in the taxable year the loss was incurred by utilizing the three year carryback provided under K.S.A. 79-32,143, as in effect on December 31, 1987, multiplied by a fraction, the numerator of which is the unused portion of such net operating loss in the final year, and the denominator of which is the amount of such net operating loss ~~which~~ *that* could have been carried back to the three years immediately preceding the year in which the loss was incurred. In no event may such fraction exceed ~~1~~ *one*.

(e) Notwithstanding any other provisions of the Kansas income tax act, the net operating loss as computed under subsections (a), (b) and (c) ~~of this section~~ shall be allowed in full in determining Kansas taxable income or at the option of the taxpayer allowed in full in determining Kansas adjusted gross income.

(f) No refund of income tax ~~which~~ *that* results from a net operating farm loss carry back shall be allowed in an amount exceeding $1,500 in any year. Any overpayment in excess of $1,500 may be carried forward to any year or years after the year of the loss and may be claimed as a credit against the tax. The refundable portion of such credit shall not exceed $1,500 in any year.

(g) For tax year 2013, and all tax years thereafter, a net operating loss allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to ~~subsection (c) of~~ K.S.A. 79-32,110*(c)*, and amendments thereto, and used only to determine such taxpayer's corporate income tax liability.

Sec. 13. K.S.A. 79-32,143a is hereby amended to read as follows: 79-32,143a. (a) For taxable years beginning after December 31, ~~2011~~ *2020*, a taxpayer may elect to take an expense deduction from Kansas net income before expensing or recapture allocated or apportioned to this state for the cost of the following property placed in service in this state during the taxable year: (1) Tangible property eligible for depreciation under the modified accelerated cost recovery system in section 168 of the internal revenue code, as amended, but not including residential rental property, nonresidential real property, any railroad grading or tunnel bore or any other property with an applicable recovery period in excess of 25 years as defined under section 168(c) or (g) of the internal revenue code, as amended; and (2) computer software as defined in section 197(e)(3)(B) of the internal revenue code, as amended, and as described in section 197(e)(3)(A)(i) of the internal revenue code, as amended, to which section 167 of the internal revenue code, as amended, applies. If such election is made, the amount of expense deduction for such cost shall equal

the difference between the depreciable cost of such property for federal income tax purposes and the *sum of the* amount of bonus depreciation being claimed for such property pursuant to section 168(k) *and the amount of expensing deduction being claimed for such property pursuant to section 179* of the internal revenue code, as amended, for federal income tax purposes in such tax year, ~~but without regard to any expense deduction being claimed for such property under section 179 of the internal revenue code, as amended,~~ multiplied by the applicable factor, determined by using, the table provided in subsection (f), based on the method of depreciation selected pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue code, as amended, and the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended. This election shall be made by the due date of the original return, including any extensions, and may be made only for the taxable year in which the property is placed in service, and once made, shall be irrevocable. ~~If the section 179 expense deduction election has been made for federal income tax purposes for any asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column of the table provided in subsection (f) for the applicable recovery period of the respective assets.~~

(b) If the amount of expense deduction calculated pursuant to subsection (a) exceeds the taxpayer's Kansas net income before expensing or recapture allocated or apportioned to this state, such excess amount shall be treated as a Kansas net operating loss as provided in K.S.A. 79-32,143, and amendments thereto.

(c) If the property for which an expense deduction is taken pursuant to subsection (a) is subsequently sold during the applicable recovery period for such property as defined under section 168(c) of the internal revenue code, as amended, and in a manner that would cause recapture of any previously taken expense or depreciation deductions for federal income tax purposes, or if the situs of such property is otherwise changed such that the property is relocated outside the state of Kansas during such applicable recovery period, then the expense deduction determined pursuant to subsection (a) shall be subject to recapture and treated as Kansas taxable income allocated to this state. The amount of recapture shall be the Kansas expense deduction determined pursuant to subsection (a) multiplied by a fraction, the numerator of which is the number of years remaining in the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended, after such property is sold or removed from the state including the year of such disposition, and the denominator of which is the total number of years in such applicable recovery period.

(d) The situs of tangible property for purposes of claiming and recapture of the expense deduction shall be the physical location of such

property. If such property is mobile, the situs shall be the physical location of the business operations from where such property is used or based. The situs of computer software shall be apportioned to Kansas based on the fraction, the numerator of which is the number of the taxpayer's users located in Kansas of licenses for such computer software used in the active conduct of the taxpayer's business operations, and the denominator of which is the total number of the taxpayer's users of the licenses for such computer software used in the active conduct of the taxpayer's business operations everywhere.

(e) Any member of a unitary group filing a combined report may elect to take an expense deduction pursuant to subsection (a) for an investment in property made by any member of the combined group, provided that the amount calculated pursuant to subsection (a) may only be deducted from the Kansas net income before expensing or recapture allocated to or apportioned to this state by such member making the election.

(f) The following table shall be used in determining the expense deduction calculated pursuant to subsection (a):

	Factors		
IRC§168 Recover Period (year)	**IRC§168(b)(1) Depreciation Method**	**IRC§168(b)(2) Depreciation Method**	**IRC§168(b)(3) or (g) Depreciation Method**
2.5	*	.077	.092
3	.075	.091	.106
3.5	*	.102	.116
4	*	.114	.129
5	.116	.135	.150
6	*	.154	.170
6.5	*	.163	.179
7	.151	.173	.190
7.5	*	.181	.199
8	*	.191	.208
8.5	*	.199	.217
9	*	.208	.226
9.5	*	.216	.235
10	.198	.224	.244
10.5	*	.232	.252
11	*	.240	.261
11.5	*	.248	.269
12	*	.256	.277
12.5	*	.263	.285
13	*	.271	.293
13.5	*	.278	.300
14	*	.285	.308
15	*	.299	.323
16	*	.313	.337
16.5	*	.319	.344

IRC§168 Recover Period (year)	IRC§168(b)(1) Depreciation Method	IRC§168(b)(2) Depreciation Method	IRC§168(b)(3) or (g) Depreciation Method
17	*	.326	.351
18	*	.339	.365
19	*	.351	.378
20	*	.363	.391
22	*	.386	.415
24	*	.408	.438
25	*	.419	.449

*Not Applicable

(g) If a taxpayer elects to expense any investment pursuant to subsection (a), such taxpayer shall not be eligible for any tax credit, accelerated depreciation, or deduction for such investment allowed pursuant to K.S.A. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and amendments thereto.

(h) (1) For tax year 2013, the deduction allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to ~~subsection (c) of~~ K.S.A. 79-32,110*(c)*, and amendments thereto, and used only to determine such taxpayer's corporate income tax liability.

(2) For tax ~~year~~ *years* 2014~~, and all tax years thereafter~~ *through 2020*, the deduction allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to ~~subsection (c) of~~ K.S.A. 79-32,110*(c)*, and amendments thereto, or the privilege tax imposed upon any national banking association, state bank, savings bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and used only to determine such taxpayer's corporate income or privilege tax liability.

(i) For tax year 2021, and all tax years thereafter, the deduction allowed by this section shall be available to all taxpayers subject to the income tax imposed pursuant to K.S.A. 79-32,110, and amendments thereto, or the privilege tax imposed upon any national banking association, state bank, savings bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and used only to determine such taxpayer's income or privilege tax liability.

Sec. 14. K.S.A. 79-3702 is hereby amended to read as follows: 79-3702. For the purposes of this act: (a) "Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the seller of an article of tangible personal property for the article purchased. ~~The term shall include~~*"Purchase price" includes*, in addition to

the consideration paid or given or contracted to be paid or given, the actual cost of transportation from the place where the article was purchased to the person using the same in this state. If a cash discount is allowed and taken on the sale ~~it~~, *such cash discount* shall be deducted in arriving at the purchase price.

(b) The meaning ascribed to words and phrases in K.S.A. 79-3602, and amendments thereto, insofar as is practicable, shall be applicable herein unless otherwise provided. The provisions of K.S.A. 79-3601 ~~to~~ *through* 79-3625, ~~inclusive,~~ 79-3650, ~~K.S.A.~~ 79-3693 and 79-3694, and amendments thereto, relating to enforcement, collection and administration, insofar as practicable, shall have full force and effect with respect to taxes imposed under the provisions of this act.

(c) "Use" means the exercise within this state by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of the property in the regular course of business, and except storage as hereinafter defined.

(d) "Storage" means any keeping or retaining in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(e) "Storage" and "use" do not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into this state for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

(f) "Property used in processing" means: (1) Any tangible personal property ~~which~~ *that*, when used in fabrication, compounding, manufacturing or germination, becomes an integral part of the new article resulting from such fabrication, compounding, manufacturing, or germination, and intended to be sold ultimately at retail; and (2) fuel ~~which~~ *that* is consumed in creating power, heat, or steam for processing or for generating electric current.

(g) "Retailer" means every person engaged in the business of selling tangible personal property for use within the meaning of this act, except that, when in the opinion of the director it is necessary for the efficient administration of this act to regard any salesperson, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director

may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this act.

(h) (1) "Retailer doing business in this state" or any like term, means: (A) Any retailer maintaining in this state, permanently, temporarily, directly or indirectly through a subsidiary, agent or representative, an office, distribution house, sales house, warehouse or other place of business;

(B) any retailer utilizing an employee, independent contractor, agent, representative, salesperson, canvasser, solicitor or other person operating in this state either permanently or temporarily, for the purpose of selling, delivering, installing, assembling, servicing, repairing, soliciting sales or the taking of orders for tangible personal property;

(C) any retailer, including a contractor, repair person or other service provider, who enters this state to perform services that are enumerated in K.S.A. 79-3603, and amendments thereto, and who is required to secure a retailer's sales tax registration certificate before performing those services;

(D) any retailer deriving rental receipts from a lease of tangible personal property situated in this state;

(E) any person regularly maintaining a stock of tangible personal property in this state for sale in the normal course of business; ~~and~~

(F) any retailer who has any other contact with this state that would allow this state to require the retailer to collect and remit tax under the provisions of the constitution and laws of the United States*; and*

(G) (i) for any retailer that does not satisfy any of the requirements contained in subparagraphs (A) through (F), such retailer shall be a retailer doing business in this state, if:

(a) For the period beginning on January 1, 2021, through June 30, 2021, the retailer had in excess of $100,000 of cumulative gross receipts from sales by the retailer to customers in this state; or

(b) during the current or immediately preceding calendar year, the retailer had in excess of $100,000 of cumulative gross receipts from sales by the retailer to customers in this state.

(ii) (a) For any retailer who satisfies the provisions of subparagraph (G)(i), such retailer shall not be required to collect and remit any taxes from sales occurring prior to July 1, 2021.

(b) For any retailer who satisfies the provisions of subparagraph (G) (i)(b) for sales in the current calendar year for the first time, such retailer shall be required to collect and remit the tax on any sales in excess of $100,000 of cumulative gross receipts from sales in the current calendar year by the retailer to customers in this state.

(2) A retailer shall be presumed to be doing business in this state if any ~~of the following occur:~~

~~(A) Any~~ person, other than a common carrier acting in its capacity as such, that has nexus with the state sufficient to require such person to

collect and remit taxes under the provisions of the constitution and laws of the United States if such person were making taxable retail sales of tangible personal property or services in this state *and such person*:

~~(i)~~*(A)* Sells the same or a substantially similar line of products as the retailer and does so under the same or a substantially similar business name;

~~(ii)~~*(B)* maintains a distribution house, sales house, warehouse or similar place of business in Kansas that delivers or facilitates the sale or delivery of property sold by the retailer to consumers;

~~(iii)~~*(C)* uses trademarks, service marks~~,~~ or trade names in the state that are the same or substantially similar to those used by the retailer;

~~(iv)~~*(D)* delivers, installs, assembles or performs maintenance services for the retailer's customers within the state;

~~(v)~~*(E)* facilitates the retailer's delivery of property to customers in the state by allowing the retailer's customers to pick up property sold by the retailer at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in the state;

~~(vi)~~*(F)* has a franchisee or licensee operating under its trade name if the franchisee or the licensee is required to collect the tax under the Kansas retailers' sales tax act; or

~~(vii)~~*(G)* conducts any other activities in the state that are significantly associated with the retailer's ability to establish and maintain a market in the state for the retailer's sales.

~~(B) Any affiliated person conducting activities in this state described in subparagraph (A) or (C) has nexus with this state sufficient to require such person to collect and remit taxes under the provisions of the constitution and laws of the United States if such person were making taxable retail sales of tangible personal property or services in this state.~~

~~(C) The retailer enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link or an internet website, by telemarketing, by an in-person oral presentation, or otherwise, to the retailer, if the cumulative gross receipts from sales by the retailer to customers in the state who are referred to the retailer by all residents with this type of an agreement with the retailer is in excess of $10,000 during the preceding 12 months. This presumption may be rebutted by submitting proof that the residents with whom the retailer has an agreement did not engage in any activity within the state that was significantly associated with the retailer's ability to establish or maintain the retailer's market in the state during the preceding 12 months. Such proof may consist of sworn written statements from all of the residents with whom the retailer has an agreement stating that they did not engage in any solicitation in the state on behalf of the retailer during the preced-~~

~~ing year, provided that such statements were provided and obtained in good faith. This subparagraph shall take effect 90 days after the enactment of this statute and shall apply to sales made and uses occurring on or after the effective date of this subparagraph and without regard to the date the retailer and the resident entered into the agreement described in this subparagraph. The term "preceding 12 months" as used in this subparagraph includes the 12 months commencing prior to the effective date of this subparagraph.~~

~~(D) The presumptions in subparagraphs (A) and (B) may be rebutted by demonstrating that the activities of the person or affiliated person in the state are not significantly associated with the retailer's ability to establish or maintain a market in this state for the retailer's sales.~~

(3) The processing of orders electronically, by fax, telephone, the internet or other electronic ordering process~~,~~ does not relieve a retailer of responsibility for collection of the tax from the purchaser if the retailer is doing business in this state pursuant to this section.

(i) "Director" means the director of taxation.

~~(j) As used in this section, "affiliated person" means any person that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code as the retailer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that is a member of the same "controlled group of corporations" as defined in section 1563(a) of the federal internal revenue code.~~

Sec. 15. K.S.A. 79-3221, 79-3221o, 79-32,117, 79-32,119, 79-32,120, 79-32,138, 79-32,143, 79-32,143a and 79-3702 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

In compliance with subsection (c) of K.S.A. 45-304, attached please find the Certificate of Action taken by the Senate and the House of Representatives relating to the veto of **Senate Bill No. 50,** AN ACT concerning taxation; relating to sales and compensating use tax; requiring the collection and remittance for sales, compensating use and transient guest taxes and prepaid wireless 911 fees made on marketplace facilitator platforms; removing click-through nexus provisions; relating to income tax; providing for addition and subtraction modifications for the treatment of global intangible low-taxed income, business interest, capital contributions, FDIC premiums and business meals; expanding the expense deduction for income taxpayers and calculating the deduction amount; providing the ability to elect to itemize for individuals; exemption of unemployment compensation income attributable as a result of identity fraud; removing the line for reporting compensating use tax from individual tax returns;

extending the dates when corporate tax returns are required to be filed; increasing the Kansas standard deduction; providing for an extension of the corporate net operating loss carryforward period; amending K.S.A. 79-3221, 79-3221o, 79-32,117, 79-32,119, 79-32,120, 79-32,138, 79-32,143, 79-32,143a and 79-3702 and repealing the existing sections.

The veto message from the Governor having been received, a motion was made that notwithstanding the Governor's objections to **Senate Bill No. 50** the bill be passed. By a vote of 84 Yeas and 39 Nays, the motion having received the required two-thirds majority of the members elected to the Senate voting in the affirmative, the bill passed.

CERTIFICATE

In accordance with K.S.A. 45-304, it is certified that **Senate Bill 50**, was not approved by the Governor on April 16, 2021; was returned with her objections and approved on May 3, 2021 by two-thirds of the members elected to the Senate notwithstanding the objections of the governor; was reconsidered by the House of Representatives and was approved on May 3, 2021, 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 3rd day of May, 2021 by the Chief Clerk and Speaker of the House of Representatives and the President and Secretary of the Senate.

Susan W. Kannar
Chief Clerk of the House of Representatives

Ron Ryckman
Speaker of the House of Representatives

Corey Carnahan
Secretary of the Senate

Ty Masterson
President of the Senate

Governor's veto overridden (See Messages from the Governor)

CHAPTER 94

HOUSE BILL No. 2058

AN ACT concerning crimes, punishment and criminal procedure; relating to firearms; reducing the underlying felonies for the crime of criminal possession of a weapon by a convicted felon; restoration of the right to possess firearms upon expungement of convictions; recognition of licenses under the personal and family protection act issued by other jurisdictions; creating a provisional license for persons under the age of 21; authorizing the issuance of alternative license during certain circumstances; amending K.S.A. 75-7c02, 75-7c03, 75-7c04, 75-7c05, 75-7c08 and 75-7c21 and K.S.A. 2020 Supp. 21-5914, 21-6301, 21-6302, 21-6304, 21-6309, 21-6614 and 32-1002 and repealing the existing sections.

WHEREAS, The amendments made to the provisions of K.S.A. 2020 Supp. 21-6304 and 21-6614 by this act shall be known as the Kansas protection of firearms rights act.

Now, therefore:

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

Section 1. K.S.A. 2020 Supp. 21-5914 is hereby amended to read as follows: 21-5914. (a) Traffic in contraband in a correctional institution or care and treatment facility is, without the consent of the administrator of the correctional institution or care and treatment facility:

(1) Introducing or attempting to introduce any item into or upon the grounds of any correctional institution or care and treatment facility;

(2) taking, sending, attempting to take or attempting to send any item from any correctional institution or care and treatment facility;

(3) any unauthorized possession of any item while in any correctional institution or care and treatment facility;

(4) distributing any item within any correctional institution or care and treatment facility;

(5) supplying to another who is in lawful custody any object or thing adapted or designed for use in making an escape; or

(6) introducing into an institution in which a person is confined any object or thing adapted or designed for use in making any escape.

(b) Traffic in contraband in a correctional institution or care and treatment facility is a:

(1) Severity level 6, nonperson felony, except as provided in subsection (b)(2) or (b)(3);

(2) severity level 5, nonperson felony if such items are:

(A) Firearms, ammunition, explosives or a controlled substance ~~which~~ *that* is defined in K.S.A. 2020 Supp. 21-5701, and amendments thereto, except as provided in subsection (b)(3);

(B) defined as contraband by rules and regulations adopted by the secretary of corrections, in a state correctional institution or facility by an

employee of a state correctional institution or facility, except as provided in subsection (b)(3);

(C) defined as contraband by rules and regulations adopted by the secretary for aging and disability services, in a care and treatment facility by an employee of a care and treatment facility, except as provided in subsection (b)(3); or

(D) defined as contraband by rules and regulations adopted by the commissioner of the juvenile justice authority, in a juvenile correctional facility by an employee of a juvenile correctional facility, except as provided by subsection (b)(3); and

(3) severity level 4, nonperson felony if:

(A) Such items are firearms, ammunition or explosives, in a correctional institution by an employee of a correctional institution or in a care and treatment facility by an employee of a care and treatment facility; or

(B) a violation of subsection (a)(5) or (a)(6) by an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services to the department of corrections.

(c) The provisions of subsection (b)(2)(A) shall not apply to the possession of a firearm or ammunition in a parking lot open to the public if the firearm or ammunition is carried on the person while in a vehicle or while securing the firearm or ammunition in the vehicle, or stored out of plain view in a locked but unoccupied vehicle, *and such person is either: (1) 21 years of age or older; or (2) possesses a valid provisional license issued pursuant to K.S.A. 75-7c03, and amendments thereto, or a valid license to carry a concealed handgun issued by another jurisdiction that is recognized in this state pursuant to K.S.A. 75-7c03, and amendments thereto*.

(d) As used in this section:

(1) "Correctional institution" means any state correctional institution or facility, conservation camp, state security hospital, juvenile correctional facility, community correction center or facility for detention or confinement, juvenile detention facility or jail;

(2) "care and treatment facility" means the state security hospital provided for under K.S.A. 76-1305 et seq., and amendments thereto, and a facility operated by the Kansas department for aging and disability services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto; and

(3) "lawful custody" means the same as in K.S.A. 2020 Supp. 21-5912, and amendments thereto.

Sec. 2. K.S.A. 2020 Supp. 21-6301 is hereby amended to read as follows: 21-6301. (a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club or metal knuckles;

(2) possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, throwing star, stiletto or any other dangerous or deadly weapon or instrument of like character;

(3) setting a spring gun;

(4) possessing any device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm;

(5) selling, manufacturing, purchasing or possessing a shotgun with a barrel less than 18 inches in length, or any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger, whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically;

(6) possessing, manufacturing, causing to be manufactured, selling, offering for sale, lending, purchasing or giving away any cartridge which can be fired by a handgun and which has a plastic-coated bullet that has a core of less than 60% lead by weight, whether the person knows or has reason to know that the plastic-coated bullet has a core of less than 60% lead by weight;

(7) selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age whether the person knows or has reason to know the length of the barrel;

(8) selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;

(9) selling, giving or otherwise transferring any firearm to any person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto;

(10) possessing any firearm by a person who is both addicted to and an unlawful user of a controlled substance;

(11) possessing any firearm by any person, other than a law enforcement officer, in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event whether the person knows or has reason to know that such person was in or on any such property or grounds;

(12) refusing to surrender or immediately remove from school property or grounds or at any regularly scheduled school sponsored activity or event any firearm in the possession of any person, other than a law en-

forcement officer, when so requested or directed by any duly authorized school employee or any law enforcement officer;

(13) possessing any firearm by a person who is or has been a mentally ill person subject to involuntary commitment for care and treatment, as defined in K.S.A. 59-2946, and amendments thereto, or persons with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto;

(14) possessing a firearm with a barrel less than 12 inches long by any person less than 18 years of age;

(15) possessing any firearm while a fugitive from justice;

(16) possessing any firearm by a person who is an alien illegally or unlawfully in the United States;

(17) possessing any firearm by a person while such person is subject to a court order that:

(A) Was issued after a hearing, of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking or threatening an intimate partner of such person or a child of such person or such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and

(C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(18) possessing any firearm by a person who, within the preceding five years, has been convicted of a misdemeanor for a domestic violence offense, or a misdemeanor under a law of another jurisdiction which is substantially the same as such misdemeanor offense.

(b) Criminal use of weapons as defined in:

(1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a class A nonperson misdemeanor;

(2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson felony;

(3) subsection (a)(10) or (a)(11) is a class B nonperson select misdemeanor;

(4) subsection (a)(13), (a)(15), (a)(16), (a)(17) or (a)(18) is a severity level 8, nonperson felony; and

(5) subsection (a)(14) is a:

(A) Class A nonperson misdemeanor except as provided in subsection (b)(5)(B);

(B) severity level 8, nonperson felony upon a second or subsequent conviction.

(c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsections (a)(4) and (a)(5) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) Subsection (a)(6) shall not apply to a governmental laboratory or solid plastic bullets.

(f) Subsection (a)(4) shall not apply to a law enforcement officer who is:

(1) Assigned by the head of such officer's law enforcement agency to a tactical unit which receives specialized, regular training;

(2) designated by the head of such officer's law enforcement agency to possess devices described in subsection (a)(4); and

(3) in possession of commercially manufactured devices which are:

(A) Owned by the law enforcement agency;

(B) in such officer's possession only during specific operations; and

(C) approved by the bureau of alcohol, tobacco, firearms and explosives of the United States department of justice.

(g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory.

(h) Subsections (a)(4) and (a)(5) shall not apply to or affect any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

(i) (1) Subsection (a)(4) shall not apply to or affect any person in possession of a device or attachment designed, used or intended for use in suppressing the report of any firearm, if such device or attachment satisfies the description of a Kansas-made firearm accessory as set forth in K.S.A. 2020 Supp. 50-1204, and amendments thereto.

(2) The provisions of this subsection shall apply to any violation of subsection (a)(4) that occurred on or after April 25, 2013.

(j) Subsection (a)(11) shall not apply to:

(1) Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school;

(2) possession of any firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any accredited nonpublic school;

(3) possession of a firearm secured in a motor vehicle by a parent, guardian, custodian or someone authorized to act in such person's behalf who is delivering or collecting a student; ~~or~~

(4) possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day; or

(5) possession of a concealed handgun by an individual who is not prohibited from possessing a firearm under either federal or state law, *and who is either: (A) 21 years of age or older; or (B) possesses a valid provisional license issued pursuant to K.S.A. 75-7c03, and amendments thereto, or a valid license to carry a concealed handgun issued by another jurisdiction that is recognized in this state pursuant to K.S.A. 75-7c03, and amendments thereto*.

(k) Subsections (a)(9) and (a)(13) shall not apply to a person who has received a certificate of restoration pursuant to K.S.A. 75-7c26, and amendments thereto.

(l) Subsection (a)(14) shall not apply if such person, less than 18 years of age, was:

(1) In attendance at a hunter's safety course or a firearms safety course;

(2) engaging in practice in the use of such firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located, or at another private range with permission of such person's parent or legal guardian;

(3) engaging in an organized competition involving the use of such firearm, or participating in or practicing for a performance by an organization exempt from federal income tax pursuant to section 501(c)(3) of the internal revenue code of 1986 which uses firearms as a part of such performance;

(4) hunting or trapping pursuant to a valid license issued to such person pursuant to article 9 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

(5) traveling with any such firearm in such person's possession being unloaded to or from any activity described in subsections (l)(1) through (l)(4), only if such firearm is secured, unloaded and outside the immediate access of such person;

(6) on real property under the control of such person's parent, legal guardian or grandparent and who has the permission of such parent, legal guardian or grandparent to possess such firearm; or

(7) at such person's residence and who, with the permission of such person's parent or legal guardian, possesses such firearm for the purpose of exercising the rights contained in K.S.A. 2020 Supp. 21-5222, 21-5223 or 21-5225, and amendments thereto.

(m) As used in this section:

(1) "Domestic violence" means the use or attempted use of physical force, or the threatened use of a deadly weapon, committed against a person with whom the offender is involved or has been involved in a dating relationship or is a family or household member.

(2) "Fugitive from justice" means any person having knowledge that a warrant for the commission of a felony has been issued for the apprehension of such person under K.S.A. 22-2713, and amendments thereto.

(3) "Intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person or an individual who cohabitates or has cohabitated with the person.

(4) "Throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

Sec. 3. K.S.A. 2020 Supp. 21-6302 is hereby amended to read as follows: 21-6302. (a) Criminal carrying of a weapon is knowingly carrying:

(1) Any bludgeon, sandclub, metal knuckles or throwing star;

(2) concealed on one's person, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character;

(3) on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance; ~~or~~

(4) any pistol, revolver or other firearm concealed on one's person if such person is under 21 years of age, except when on such person's land or in such person's abode or fixed place of business; or

(5) a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically.

(b) Criminal carrying of a weapon as defined in:

(1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson misdemeanor; and

(2) subsection (a)(5) is a severity level 9, nonperson felony.

(c) Subsection (a) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsection (a)(4) shall not apply to any person who is carrying a handgun, as defined in K.S.A. 75-7c02, and amendments thereto, and who possesses a valid provisional license issued pursuant to K.S.A. 75-7c03, and amendments thereto, or a valid license or permit to carry a concealed firearm that was issued by another jurisdiction and is recognized in this state pursuant to K.S.A. 75-7c03, and amendments thereto.

~~(d)~~*(e)* Subsection (a)(5) shall not apply to:

(1) Any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor;

(2) any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsection (a)(5) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory; or

(3) any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

~~(e)~~*(f)* As used in this section, "throwing star" means the same as prescribed by K.S.A. 2020 Supp. 21-6301, and amendments thereto.

Sec. 4. K.S.A. 2020 Supp. 21-6304 is hereby amended to read as follows: 21-6304. (a) Criminal possession of a weapon by a convicted felon is possession of any weapon by a person who:

(1) Has been convicted of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, or a crime under a law of another jurisdiction ~~which~~ *that* is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, and was found *by the convicting court* to have ~~been in possession of~~ *used* a firearm ~~at the time of~~ *in* the commission of the crime;

(2) ~~within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(3)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was not found to have been in possession of a firearm at the time of the commission of the crime; or~~

~~(3) within the preceding 10 years, has been~~

(A) *(i) Has been convicted of a person felony, other than those specified in subsection (a)(3)(A)(i), under the laws of Kansas or a crime under the law of another jurisdiction which is substantially the same as such person felony; or*

(ii) was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony;

(B) was not found by the convicting court to have used a firearm in the commission of such crime; and

(C) less than three years have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence;

(3) (A) (i) has been convicted of a~~:~~

~~(A)~~ felony under*:*

(a) K.S.A. 2020 Supp. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, ~~subsection (b) or (d) of~~ 21-5412 *(b) or (d)*, ~~subsection (b) or (d) of~~ 21-5413*(b) or (d)*, ~~subsection (a) of~~ 21-5415*(a)*, ~~subsection (b) of~~ 21-5420*(b)*, 21-5503, ~~subsection (b) of~~ 21-5504*(b)*, ~~subsection (b) of~~ 21-5505*(b)*, and ~~subsection (b) of~~ 21-5807*(b)*, and amendments thereto;

(b) article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(c) K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer;

(d) K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their repeal;

(e) 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. 2020 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such felony; or

(f) a crime under a law of another jurisdiction ~~which~~ *that* is substantially the same as such felony~~, has been~~*; or*

(ii) has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony~~, was not found to have been in possession of a firearm at the time of the commission of the crime, and has not had the conviction of such crime expunged or been pardoned for such crime. The provisions of subsection (j)(2) of K.S.A. 2020 Supp. 21-6614, and amendments thereto, shall not apply to an individual who has had a conviction under this paragraph expunged; or~~

~~(B) nonperson felony under the laws of Kansas or a crime under the laws of another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the crime~~*; and*

(B) less than eight years have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or

(4) (A) (i) has been convicted of any other nonperson felony, other than those specified in subsections (a)(1) through (a)(3), under the laws of

Kansas or a crime under the law of another jurisdiction which is substantially the same as such nonperson felony; or

(ii) was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony; and

(B) less than three months have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

(b) Criminal possession of a weapon by a convicted felon is a severity level 8, nonperson felony.

(c) *The provisions of subsections (a)(1), (a)(2) and (a)(4) shall not apply to a person who has been convicted of a crime and has had the conviction of such crime expunged or has been pardoned for such crime.*

(d) As used in this section:

(1) "Knife" means a dagger, dirk, switchblade, stiletto, straight-edged razor or any other dangerous or deadly cutting instrument of like character; and

(2) "weapon" means a firearm or a knife.

Sec. 5. K.S.A. 2020 Supp. 21-6309 is hereby amended to read as follows: 21-6309. (a) It shall be unlawful to possess, with no requirement of a culpable mental state, a firearm:

(1) Within any building located within the capitol complex;

(2) within the governor's residence;

(3) on the grounds of or in any building on the grounds of the governor's residence;

(4) within any other state-owned or leased building if the secretary of administration has so designated by rules and regulations and conspicuously placed signs clearly stating that firearms are prohibited within such building; or

(5) within any county courthouse, unless, by county resolution, the board of county commissioners authorize the possession of a firearm within such courthouse.

(b) Violation of this section is a class A misdemeanor.

(c) This section shall not apply to:

(1) A commissioned law enforcement officer;

(2) a full-time salaried law enforcement officer of another state or the federal government who is carrying out official duties while in this state;

(3) any person summoned by any such officer to assist in making arrests or preserving the peace while actually engaged in assisting such officer; or

(4) a member of the military of this state or the United States engaged in the performance of duties.

(d) It is not a violation of this section for:

(1) The governor, the governor's immediate family, or specifically authorized guest of the governor to possess a firearm within the governor's residence or on the grounds of or in any building on the grounds of the governor's residence;

(2) the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed, to possess a firearm within any county courthouse and court-related facility, subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district;

(3) law enforcement officers, as that term is defined in K.S.A. 75-7c22, and amendments thereto, who satisfy the requirements of either K.S.A. 75-7c22(a) or (b), and amendments thereto, to possess a firearm; or

(4) an individual to possess a concealed handgun ~~provided~~ *if* such individual is not prohibited from possessing a firearm under either federal or state law*, and such individual is either: (A) 21 years of age or older; or (B) possesses a valid provisional license issued pursuant to K.S.A. 75-7c03, and amendments thereto, or a valid license to carry a concealed handgun issued by another jurisdiction that is recognized in this state pursuant to K.S.A. 75-7c03, and amendments thereto*.

(e) Notwithstanding the provisions of this section, any county may elect by passage of a resolution that the provisions of subsection (d)(2) shall not apply to such county's courthouse or court-related facilities if such:

(1) Buildings have adequate security measures to ensure that no weapons are permitted to be carried into such buildings;

(2) county also has a policy or regulation requiring all law enforcement officers to secure and store such officer's firearm upon entering the courthouse or court-related facility. Such policy or regulation may provide that it does not apply to court security or sheriff's office personnel for such county; and

(3) buildings have a sign conspicuously posted at each entryway into such building stating that the provisions of subsection (d)(2) do not apply to such building.

(f) As used in this section:

(1) "Adequate security measures" shall have the same meaning as the term is defined in K.S.A. 75-7c20, and amendments thereto;

(2) "possession" means having joint or exclusive control over a firearm or having a firearm in a place where the person has some measure of access and right of control; and

(3) "capitol complex" means the same as in K.S.A. 75-4514, and amendments thereto.

(g) For the purposes of subsections (a)(1), (a)(4) and (a)(5), "building" and "courthouse" shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.

Sec. 6. K.S.A. 2020 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, postrelease supervision, conditional release or a suspended sentence.

(2) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has fulfilled the terms of a diversion agreement may petition the district court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 2020 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. 2020 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state ~~which~~ *that* 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~~ *that* 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~~ *that* 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~~ *that* 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. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604, and amendments thereto, or required by a law of another state ~~which~~ *that* 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, 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, 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. 2020 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. 2020 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. 2020 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. 2020 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. 2020 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. 2020 Supp. 21-5510, and amendments thereto;

(7) internet trading in child pornography or aggravated internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514, and amendments thereto;

(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 Supp. 21-5604, and amendments thereto;

(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. 2020 Supp. 21-5601, and amendments thereto;

(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2020 Supp. 21-5602, and amendments thereto;

(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2020 Supp. 21-5401, and amendments thereto;

(12) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;

(13) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;

(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;

(15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2020 Supp. 21-5405, and amendments thereto;

(16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2020 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2020 Supp. 21-5505, and amendments thereto;

(18) a violation of K.S.A. 8-2,144, and amendments thereto, including any diversion for such violation; or

(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, 2019, through June 30, 2025, 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*; and*

(4) with respect to petitions seeking expungement of a felony conviction, possession of a firearm by the petitioner is not likely to pose a threat to the safety of the public.

(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~~ *that* shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency ~~which~~ *that* 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. 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) ~~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. 75-7c01 et seq., and amendments thereto; or~~

~~(L)~~ to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09*, and amendments thereto,* and K.S.A. 2020 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~~ *that* 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. 2020 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~~ *A person whose arrest record, conviction or diversion of a crime that resulted in such person being prohibited by state or federal law from possessing a firearm has been expunged under this statute shall be deemed to have had such person's right to keep and bear arms fully restored. This restoration of rights shall include, but not be limited to, the right to use, transport, receive, purchase, transfer and possess firearms. The provisions of this paragraph shall apply to all orders of expungement, including any orders issued prior to July 1, 2021.*

(l) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;

(10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;

(11) the Kansas sentencing commission;

(12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;

(13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(14) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

(15) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility

for employment as a law enforcement officer as defined by K.S.A. 22-2202, and amendments thereto;

(16) *(A)* 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. 75-7e01 through 75-7e09*, and amendments thereto,* and K.S.A. 2020 Supp. 50-6,141, and amendments thereto; or

(B) the attorney general for any other purpose authorized by law, except that an expungement record shall not be the basis for denial of a license to carry a concealed handgun under the personal and family protection act; or

(17) the Kansas bureau of investigation, for the ~~purposes~~ *purpose* 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) *(1)* The provisions of subsection (l)(17) shall apply to records created prior to, on and after July 1, 2011.

(2) Upon the issuance of an order of expungement that resulted in the restoration of a person's right to keep and bear arms, the Kansas bureau of investigation shall report to the federal bureau of investigation that such expunged record be withdrawn from the national instant criminal background check system. The Kansas bureau of investigation shall include such order of expungement in the person's criminal history record for purposes of documenting the restoration of such person's right to keep and bear arms.

Sec. 7. K.S.A. 2020 Supp. 32-1002 is hereby amended to read as follows: 32-1002. (a) Unless and except as permitted by law or rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto, it is unlawful for any person to:

(1) Hunt, fish, furharvest or take any wildlife in this state by any means or manner;

(2) possess any wildlife, dead or alive, at any time or in any number, in this state;

(3) purchase, sell, exchange, ship or offer for sale, exchange or shipment any wildlife in this state;

(4) take any wildlife in this state for sale, exchange or other commercial purposes;

(5) possess any seine, trammel net, hoop net, fyke net, fish gig, fish spear, fish trap or other device, contrivance or material for the purpose of taking wildlife; or

(6) take or use, at any time or in any manner, any game bird, game animal, coyote or furbearing animal, whether pen-raised or wild, in any field trial or for training dogs.

(b) The provisions of subsections (a)(2) and (a)(3) do not apply to animals sold in surplus property disposal sales of department exhibit herds or animals legally taken outside this state, except the provisions of subsection (a)(3) shall apply to:

(1) The meat of game animals legally taken outside this state; and

(2) other restrictions as provided by rule and regulation of the secretary.

(c) The provisions of this section shall not be construed to prevent:

(1) Any person from taking starlings or English and European sparrows;

(2) owners or legal occupants of land from killing any animals when found in or near buildings on their premises or when destroying property, subject to the following: (A) The provisions of all federal laws and regulations governing protected species and the provisions of K.S.A. 32-957 through 32-963, and amendments thereto, and rules and regulations adopted thereunder; (B) it is unlawful to use, or possess with intent to use, any such animal so killed unless authorized by rules and regulations of the secretary; and (C) such owners or legal occupants shall make reasonable efforts to alleviate their problems with any such animals before killing them;

(3) any person who lawfully possesses a handgun from carrying such handgun, whether concealed or openly carried, while lawfully hunting, fishing or furharvesting, *if such person is either: (A) 21 years of age or older; or (B) possesses a valid provisional license issued pursuant to K.S.A. 75-7c03, and amendments thereto, or a valid license to carry a concealed handgun issued by another jurisdiction that is recognized in this state pursuant to K.S.A. 75-7c03, and amendments thereto*; or

(4) any person who lawfully possesses a device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm from using such device or attachment in conjunction with lawful hunting, fishing or furharvesting.

(d) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

Sec. 8. K.S.A. 75-7c02 is hereby amended to read as follows: 75-7c02. As used in the personal and family protection act, *except as otherwise provided*:

(a) "Attorney general" means the attorney general of the state of Kansas.

(b) "Handgun" means a "firearm," as defined in K.S.A. 75-7b01, and amendments thereto.

(c) "Athletic event" means athletic instruction, practice or competition held at any location and including any number of athletes.

(d) "Dependent" means a resident of the household of an active duty member of any branch of the armed forces of the United States who depends in whole or in substantial part upon the member for financial support.

(e) "License" means a provisional or standard license issued by the attorney general pursuant to K.S.A. 75-7c03, and amendments thereto.

Sec. 9. K.S.A. 75-7c03 is hereby amended to read as follows: 75-7c03. (a) The attorney general shall issue licenses to carry concealed handguns to persons who comply with the application and training requirements of this act and who are not disqualified under K.S.A. 75-7c04, and amendments thereto. Such licenses shall be valid throughout the state for a period of four years from the date of issuance. The availability of licenses to carry concealed handguns under this act shall not be construed to impose a general prohibition on the carrying of handguns without such license, whether carried openly or concealed, or loaded or unloaded.

(b) *Except as otherwise provided in subsection (d),* the license shall be a separate card, in a form prescribed by the attorney general, that is approximately the size of a Kansas driver's license*, shall indicate whether the license is a provisional or standard license* and shall bear the licensee's signature, name, address, date of birth and driver's license number or nondriver's identification card number except that the attorney general shall assign a unique number for military applicants or their dependents described in K.S.A. 75-7c05(a)(1)(B), and amendments thereto.

(c) (1) Subject to the provisions of subsection (c)(2), a valid license or permit to carry a concealed firearm issued by another jurisdiction shall be recognized in this state, but only while the holder is not a resident of Kansas.

(2) A valid license or permit that is recognized pursuant to this subsection shall only entitle the lawful holder thereof to carry concealed handguns, as defined by K.S.A. 75-7c02, and amendments thereto, in accordance with the laws of this state while such holder is present in this state. The recognition of a license or permit pursuant to this subsection shall not be construed to impose a general prohibition on the carrying of handguns without such license, whether carried openly or concealed, or loaded or unloaded.

(3) As used in this subsection, the terms "jurisdiction" and "license or permit" shall have the same meanings as provided in K.S.A. 75-7c04, and amendments thereto.

(d) If at any time it becomes impractical for the division of vehicles of the department of revenue to issue physical cards consistent with the requirements of this act and the attorney general determines that the conditions for such impracticality have existed for at least 30 days, the attorney general shall issue an authorization document to each licensee that authorizes the licensee to exercise the rights and privileges to carry a concealed handgun as set forth in this act. Such document shall include the licensee information required under subsection (b) and state that the document is proof that the licensee holds a valid license to carry concealed handguns. All such documents issued during any such period that it is impractical for the division of vehicles of the department of revenue to issue a physical card shall expire 90 days after such conditions have ceased and it is practical for the division of vehicles to resume issuing physical cards.

Sec. 10. K.S.A. 75-7c04 is hereby amended to read as follows: 75-7c04. (a) The attorney general shall not issue a license pursuant to this act if the applicant:

(1) Is not a resident of the county where application for licensure is made or is not a resident of the state;

(2) is prohibited from shipping, transporting, possessing or receiving a firearm or ammunition under 18 U.S.C. § 922(g) or (n), and amendments thereto, or K.S.A. 21-4204, prior to its repeal, or K.S.A. 2020 Supp. 21-6301(a)(10) through (a)(13) or K.S.A. 2020 Supp. 21-6304(a)(1) through (a)(3), and amendments thereto; or

(3) *(A) For a provisional license,* is less than ~~21~~ *18* years of age*; or*

(B) for a standard license, is less than 21 years of age.

(b) (1) The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an eight-hour handgun safety and training course required by this section. Such standards shall include: (A) A requirement that trainees receive training in the safe storage of handguns, actual firing of handguns and instruction in the laws of this state governing the carrying of concealed handguns and the use of deadly force; (B) general guidelines for courses which are compatible with the industry standard for basic handgun training for civilians; (C) qualifications of instructors; and (D) a requirement that the course be: (i) A handgun course certified or sponsored by the attorney general; or (ii) a handgun course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or handgun training school, if the attorney general determines that such course meets or exceeds the standards required by rules and regulations adopted by the attorney general and is taught by instructors certified by the attorney general or by the national rifle association, if the attorney general determines that the requirements for certification of instructors by such association meet or exceed the standards required by

rules and regulations adopted by the attorney general. Any person wanting to be certified by the attorney general as an instructor shall submit to the attorney general an application in the form required by the attorney general and a fee not to exceed $150.

(2) The cost of the handgun safety and training course required by this section shall be paid by the applicant. The following shall constitute satisfactory evidence of satisfactory completion of an approved handgun safety and training course:

(A) Evidence of completion of a course that satisfies the requirements of subsection (b)(1), in the form provided by rules and regulations adopted by the attorney general;

(B) an affidavit from the instructor, school, club, organization or group that conducted or taught such course attesting to the completion of the course by the applicant;

(C) evidence of completion of a course offered in another jurisdiction which is determined by the attorney general to have training requirements that are equal to or greater than those required by this act; or

(D) a determination by the attorney general pursuant to subsection (c).

(c) *(1)* The attorney general may:

~~(1)~~*(A)* Create a list of concealed carry handgun licenses or permits issued by other jurisdictions ~~which~~ *that* the attorney general finds have training requirements that are equal to or greater than those of this state; and

~~(2)~~*(B)* review each application received pursuant to K.S.A. 75-7c05, and amendments thereto, to determine if the applicant's previous training qualifications were equal to or greater than those of this state.

~~(d)~~*(2)* For the purposes of this ~~section~~ *subsection*:

~~(1)~~*(A)* "Equal to or greater than" means the applicant's prior training meets or exceeds the training established in this section by having required, at a minimum, the applicant to: ~~(A)~~*(i)* Receive instruction on the laws of self-defense; and ~~(B)~~*(ii)* demonstrate training and competency in the safe handling, storage and actual firing of handguns.

~~(2)~~*(B)* "Jurisdiction" means another state or the District of Columbia.

~~(3)~~*(C)* "License or permit" means a concealed carry handgun license or permit from another jurisdiction ~~which~~ *that* has not expired and, except for any residency requirement of the issuing jurisdiction, is currently in good standing.

Sec. 11. K.S.A. 75-7c05 is hereby amended to read as follows: 75-7c05. (a) The application for a license pursuant to this act shall be completed, under oath, on a form prescribed by the attorney general and shall only include:

(1) (A) Subject to the provisions of subsection (a)(1)(B), the name, address, social security number, Kansas driver's license number or Kansas nondriver's license identification number, place and date of birth, a pho-

tocopy of the applicant's driver's license or nondriver's identification card and a photocopy of the applicant's certificate of training course completion; (B) in the case of an applicant who presents proof that such person is on active duty with any branch of the armed forces of the United States, or is the dependent of such a person, and who does not possess a Kansas driver's license or Kansas nondriver's license identification, the number of such license or identification shall not be required;

(2) a statement that the applicant is in compliance with criteria contained within K.S.A. 75-7c04, and amendments thereto;

(3) a statement that the applicant has been furnished a copy of this act and is knowledgeable of its provisions;

(4) a conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under K.S.A. 2020 Supp. 21-5903, and amendments thereto; and

(5) a statement that the applicant desires a concealed handgun license as a means of lawful self-defense.

(b) Except as otherwise provided in subsection (i), the applicant shall submit to the sheriff of the county where the applicant resides, during any normal business hours:

(1) A completed application described in subsection (a);

(2) a nonrefundable license fee of $132.50, if the applicant has not previously been issued a statewide license or if the applicant's license has permanently expired, which fee shall be in the form of two cashier's checks, personal checks or money orders of $32.50 payable to the sheriff of the county where the applicant resides and $100 payable to the attorney general;

(3) if applicable, a photocopy of the proof of training required by K.S.A. 75-7c04(b)(1), and amendments thereto; and

(4) a full frontal view photograph of the applicant taken within the preceding 30 days.

(c) (1) Except as otherwise provided in subsection (i), the sheriff, upon receipt of the items listed in subsection (b), shall provide for the full set of fingerprints of the applicant to be taken and forwarded to the attorney general for purposes of a criminal history records check as provided by subsection (d). In addition, the sheriff shall forward to the attorney general the application and the portion of the original license fee which is payable to the attorney general. The cost of taking such fingerprints shall be included in the portion of the fee retained by the sheriff. Notwithstanding anything in this section to the contrary, an applicant shall not be required to submit fingerprints for a renewal application under K.S.A. 75-7c08, and amendments thereto.

(2) The sheriff of the applicant's county of residence or the chief law enforcement officer of any law enforcement agency, at the sheriff's or chief

law enforcement officer's discretion, may participate in the process by submitting a voluntary report to the attorney general containing readily discoverable information, corroborated through public records, which, when combined with another enumerated factor, establishes that the applicant poses a significantly greater threat to law enforcement or the public at large than the average citizen. Any such voluntary reporting shall be made within 45 days after the date the sheriff receives the application. Any sheriff or chief law enforcement officer submitting a voluntary report shall not incur any civil or criminal liability as the result of the good faith submission of such report.

(3) All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for the purpose of administering this act.

(d) Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards, including an inquiry of the national instant criminal background check system for the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime or has been the subject of any restraining order or any mental health related finding that would disqualify the applicant from holding a license under this act. The attorney general is authorized to use the information obtained from the state or national criminal history record check to determine the applicant's eligibility for such license.

(e) Within 90 days after the date of receipt of the items listed in subsection (b), the attorney general shall:

(1) *(A)* Issue the license and certify the issuance to the department of revenue; *and*

(B) if it is impractical for the division of vehicles of the department of revenue to issue physical cards consistent with the requirements of this act and the attorney general has determined that the conditions for such impracticality have existed for at least 30 days, the attorney general shall issue an authorization document in accordance with K.S.A. 75-7c03(d), and amendments thereto; or

(2) deny the application based solely on: (A) The report submitted by the sheriff or other chief law enforcement officer under subsection (c)(2) for good cause shown therein; or (B) the ground that the applicant is disqualified under the criteria listed in K.S.A. 75-7c04, and amendments thereto. If the attorney general denies the application, the attorney general shall notify the applicant in writing, stating the ground for denial and informing the applicant the opportunity for a hearing pursuant to the Kansas administrative procedure act.

(f) Each person issued a license shall pay to the department of revenue a fee for the cost of the license which shall be in amounts equal to the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments thereto, for replacement of a driver's license.

(g) (1) A person who is a retired law enforcement officer, as defined in K.S.A. 2020 Supp. 21-5111, and amendments thereto, shall be: (A) Required to pay an original license fee as provided in subsection (b)(2), to be forwarded by the sheriff to the attorney general; (B) exempt from the required completion of a handgun safety and training course if such person was certified by the Kansas commission on peace officer's standards and training, or similar body from another jurisdiction, not more than eight years prior to submission of the application; (C) required to pay the license renewal fee; (D) required to pay to the department of revenue the fees required by subsection (f); and (E) required to comply with the criminal history records check requirement of this section.

(2) Proof of retirement as a law enforcement officer shall be required and provided to the attorney general in the form of a letter from the agency head, or their designee, of the officer's retiring agency that attests to the officer having retired in good standing from that agency as a law enforcement officer for reasons other than mental instability and that the officer has a nonforfeitable right to benefits under a retirement plan of the agency.

(h) A person who is a corrections officer, a parole officer or a corrections officer employed by the federal bureau of prisons, as defined by K.S.A. 75-5202, and amendments thereto, shall be: (1) Required to pay an original license fee as provided in subsection (b)(2); (2) exempt from the required completion of a handgun safety and training course if such person was issued a certificate of firearms training by the department of corrections or the federal bureau of prisons or similar body not more than one year prior to submission of the application; (3) required to pay the license renewal fee; (4) required to pay to the department of revenue the fees required by subsection (f); and (5) required to comply with the criminal history records check requirement of this section.

(i) A person who presents proof that such person is on active duty with any branch of the armed forces of the United States and is stationed at a United States military installation located outside this state, may submit by mail an application described in subsection (a) and the other materials required by subsection (b) to the sheriff of the county where the applicant resides. Provided the applicant is fingerprinted at a United States military installation, the applicant may submit a full set of fingerprints of such applicant along with the application. Upon receipt of such items, the sheriff shall forward to the attorney general the application and the portion of the original license fee which is payable to the attorney general.

Sec. 12. K.S.A. 75-7c08 is hereby amended to read as follows: 75-7c08. (a) Not less than 90 days prior to the expiration date of the license, the attorney general shall mail to the licensee a written notice of the expiration and a renewal form prescribed by the attorney general. The licensee shall renew the license on or before the expiration date by filing with the attorney general

the renewal form, a notarized affidavit, either in person or by certified mail, stating that the licensee remains qualified pursuant to the criteria specified in K.S.A. 75-7c04, and amendments thereto, a full frontal view photograph of the applicant taken within the preceding 30 days and a nonrefundable license renewal fee of $25 payable to the attorney general. The attorney general shall complete a name-based background check, including a search of the national instant criminal background check system database. A licensee who fails to file a renewal application on or before the expiration date of the license must pay an additional late fee of $15. A renewal application is considered filed on the date the renewal form, affidavit, and required fees are delivered in person to the attorney general's office or on the date a certified mailing to the attorney general's office containing these items is postmarked.

(b) Upon receipt of a renewal application as specified in subsection (a), a background check in accordance with ~~subsection (d) of~~ K.S.A. 75-7c05*(d)*, and amendments thereto, shall be completed. Fingerprints shall not be required for renewal applications. If the licensee is not disqualified as provided by this act, the license shall be renewed upon receipt by the attorney general of the items listed in subsection (a) and the completion of the background check. *If the licensee holds a valid provisional license at the time the renewal application is submitted, then the attorney general shall issue a standard license to the licensee if the licensee is not disqualified as provided by this act.*

(c) No license shall be renewed if the renewal application is filed six months or more after the expiration date of the license, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure but an application for licensure and fees pursuant to K.S.A. 75-7c05, and amendments thereto, shall be submitted, and a background investigation including the submission of fingerprints, shall be conducted pursuant to the provisions of that section.

Sec. 13. K.S.A. 75-7c21 is hereby amended to read as follows: 75-7c21. (a) An individual may carry a concealed handgun in the state capitol~~,~~ ~~provided~~ *if* such individual is not prohibited from possessing a firearm under either federal or state law, *and is either: (A) 21 years of age or older; or (B) possesses a valid provisional license issued pursuant to K.S.A. 75-7c03, and amendments thereto, or a valid license to carry a concealed handgun issued by another jurisdiction that is recognized in this state pursuant to K.S.A. 75-7c03, and amendments thereto*.

(b) This section shall be a part of and supplemental to the personal and family protection act.

Sec. 14. K.S.A. 75-7c02, 75-7c03, 75-7c04, 75-7c05, 75-7c08 and 75-7c21 and K.S.A. 2020 Supp. 21-5914, 21-6301, 21-6302, 21-6304, 21-6309, 21-6614 and 32-1002 are hereby repealed.

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

In compliance with K.S.A. 45-304(c), attached please find the Certificate of Action taken by the Senate and the House of Representatives relating to the veto of **House Bill No. 2058,** AN ACT concerning crimes, punishment and criminal procedure; relating to firearms; reducing the underlying felonies for the crime of criminal possession of a weapon by a convicted felon; restoration of the right to possess firearms upon expungement of convictions; recognition of licenses under the personal and family protection act issued by other jurisdictions; creating a provisional license for persons under the age of 21; authorizing the issuance of alternative license during certain circumstances; amending K.S.A. 75-7c02, 75-7c03, 75-7c04, 75-7c05, 75-7c08 and 75-7c21 and K.S.A. 2020 Supp. 21-5914, 21-6301, 21-6302, 21-6304, 21-6309, 21-6614 and 32-1002 and repealing the existing sections.

The veto message from the Governor having been received, a motion was made that notwithstanding the Governor's objections to **House Bill No. 2058** the bill be passed. By a vote of 31 Yeas and 8 Nays, the motion having received the required two-thirds majority of the members elected to the Senate voting in the affirmative, the bill passed.

CERTIFICATE

In accordance with K.S.A. 45-304, it is certified that **House Bill No. 2058**, was not approved by the Governor on April 23, 2021; was returned by her with her objections and approved on May 3, 2021 by two-thirds of the members elected to the House of Representatives notwithstanding the objections of the Governor; was reconsidered by the Senate and was approved on May 3, 2021, by two-thirds of the members elected to the Senate, notwithstanding the objections, the bill did pass and shall become law.

This certificate is made this 3rd day of May, 2021, by the President of the Senate and Secretary of the Senate and the Speaker of the House and Chief Clerk of the House.

Ty Masterson
President of the Senate

Corey Carnahan
Secretary of the Senate

Ron Ryckman
Speaker of the House of Representatives

Susan W. Kannar
Chief Clerk of the House of Representatives

Governor's veto overridden (See Messages from the Governor)